

1 Corelli
 2 have no idea. I mean, it doesn't really work like
 3 that.
 4 Q. Why is that?
 5 MR. MANDEL: Objection. Same
 6 objections.
 7 A. I suppose if we had done fifty
 8 thousand dollars' worth of work, on the basis of
 9 what our contract provided, and then we either
 10 resigned or were terminated in accordance with the
 11 contract, and there are specific provisions for
 12 the termination, but were those to be met, and
 13 we'd been paid X amount of dollars and we
 14 completed X amount of work, then I presume it
 15 would be a wash.
 16 But in terms of exactly what that is,
 17 I mean, you'd have to kind of get into the
 18 mechanics of it.
 19 MO MR. MANDEL: Objection, move to
 20 strike.
 21 Q. Did you tell Medallion what it would
 22 cost for them, the project would cost for them up
 23 front?
 24 A. No.
 25 Q. Was there any discussion at any point

1 Corelli
 2 in time as to what the cost would be for the
 3 project?
 4 A. Are you asking was there a budget
 5 established?
 6 Q. No. Did you ever discuss what the
 7 costs would be? "It's going to cost you X number
 8 of dollars, I think"?
 9 MR. MANDEL: Objection, asked and
 10 answered.
 11 You may answer.
 12 A. No, not really.
 13 Q. Now, let me ask you this:
 14 Let's say Medallion had paid you
 15 \$300,000 and it turns out that in your view, the
 16 cost should have been, for this project, \$2
 17 million. You came up with a bill for \$2 million.
 18 Would it still be your view that
 19 Medallion would not be entitled to the drawings
 20 that were prepared?
 21 MR. MANDEL: Objection, calls for
 22 speculation, calls for legal conclusion.
 23 This is a complete and total waste of time,
 24 but you can answer if you can.
 25 A. I don't really understand the

1 Corelli
 2 question.
 3 Q. The question is this:
 4 Let's say Medallion paid you \$300,000
 5 on this job.
 6 A. Isn't this speculative?
 7 Q. It's called a hypothetical, and I'm
 8 allowed to ask you a hypothetical question so I
 9 can examine what your understanding of the facts
 10 are.
 11 A. Okay.
 12 Q. Now, so my hypothetical is as follows:
 13 Medallion paid you, let's say,
 14 \$300,000.
 15 A. Okay.
 16 Q. And you decided in your bill that it
 17 would be for \$350,000. Would that mean after, it
 18 paid you the \$300,000, Medallion would still not
 19 be entitled to the drawings that were prepared?
 20 MR. MANDEL: Same objection.
 21 Q. You can answer.
 22 A. I still don't really understand the
 23 question.
 24 Q. I'll try it again. Medallion pays
 25 you, this is my hypothetical, Medallion pays you

1 Corelli
 2 \$300,000 for the services that Triarch provided.
 3 But Triarch sends a bill after that, that it comes
 4 out to \$350,000.
 5 So according Triarch, it still owes,
 6 Medallion still owes another \$50,000. Would
 7 Medallion at that point not be entitled to the
 8 drawings that were rendered?
 9 MR. MANDEL: Same objection. Calls
 10 for a legal conclusion as well as the other
 11 objections.
 12 A. I have no idea. I don't know.
 13 Q. Okay. But here you know that
 14 Medallion wasn't entitled to the drawings that
 15 Triarch rendered because it didn't pay enough
 16 money, is that right?
 17 MR. MANDEL: Objection.
 18 A. I don't -- no, they are not entitled
 19 to the drawings because they didn't live up to
 20 their side of the bargain, per the contract.
 21 Q. Which is what? They didn't pay enough
 22 money, correct?
 23 MR. MANDEL: Objection.
 24 Q. You can answer.
 25 A. That's part of it.

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 2 Q. What's the rest of it?
 3 A. Well, they didn't terminate us
 4 properly.
 5 Q. How did they not terminate you
 6 properly?
 7 MR. MANDEL: Objection.
 8 THE WITNESS: When you say objection,
 9 am I supposed to answer or not?
 10 MR. MANDEL: You can answer unless I
 11 instruct you not to answer. And I'll only
 12 instruct you not to answer where the
 13 questions are outrageous or where they
 14 violate attorney-client privilege.
 15 THE WITNESS: So you're objecting for
 16 the record and I can answer.
 17 MR. MANDEL: Exactly.
 18 A. I'm sorry, can you please --
 19 Q. How were you not terminated correctly?
 20 MR. MANDEL: Objection.
 21 A. Well, you'd have to refer to the
 22 contract.
 23 Q. I'm asking you. You said they weren't
 24 terminated correctly -- you weren't terminated
 25 correctly. I'm asking you how.

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 2 MR. MANDEL: Objection. Objection.
 3 Asked and answered. He said you look at the
 4 contract. If you want to take out the
 5 contract, and ask him about the termination
 6 provision, do so. This isn't a memory test.
 7 MR. ISRAEL: I don't want to.
 8 Q. I want to ask you what your
 9 understanding is. You said freely, before,
 10 without looking at any documents, that Triarch
 11 wasn't terminated correctly. Now I'm asking you,
 12 how was it not terminated correctly?
 13 MR. MANDEL: Objection, argumentative,
 14 asked and answered. Calls for a legal
 15 conclusion.
 16 Q. If you don't know, you don't know.
 17 That's fine.
 18 THE WITNESS: Can I answer?
 19 MR. MANDEL: If you can answer.
 20 A. My understanding is that, in order to
 21 terminate me pursuant to the contract, they had to
 22 give me seven written days' notice if the project
 23 was suspended for 90 days or more. In the event
 24 that it wasn't, they did not have the right to
 25 unilaterally terminate me. And if they did,

1 Corelli
 2 they'd be responsible for paying the entire
 3 architectural fee that was due under the agreement
 4 as a result of their egregious default.
 5 Q. That's how you weren't terminated
 6 correctly.
 7 A. That's my understanding of it, but I'm
 8 not a lawyer.
 9 Q. Okay. Now, your colleague testified
 10 the other day that there were two instances where
 11 Triarch registered copyrights of its drawings.
 12 This is one instance. She did not identify, and
 13 I'll represent to you that she did not identify
 14 the other instance, so what I'd like to know from
 15 you is the other instance where Triarch
 16 copyrighted its drawings.
 17 MR. MANDEL: Objection.
 18 Mischaracterizes prior testimony.
 19 A. And I have no knowledge of any of
 20 that.
 21 Q. Okay. So are you aware of any other
 22 instances where Triarch copyrighted its drawings?
 23 MR. MANDEL: Objection.
 24 A. I'm not aware of the mechanics of
 25 that. It was handled by an attorney.

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 2 Q. I'm asking you if you're aware.
 3 You're aware that Triarch copyrighted drawings in
 4 this instance, is that right?
 5 A. I am.
 6 Q. Is this, to your mind, the only
 7 instance that you're aware of where Triarch
 8 copyrighted its drawings?
 9 MR. MANDEL: Objection.
 10 A. I don't know.
 11 Q. So you're not aware of any others, is
 12 that correct?
 13 MR. MANDEL: Objection.
 14 A. I just don't know.
 15 Q. So you're not aware if there are any
 16 others one way or the other, correct?
 17 MR. MANDEL: Objection, asked and
 18 answered.
 19 Q. I'm trying to understand.
 20 MR. MANDEL: Objection.
 21 Q. You can answer.
 22 MR. MANDEL: Objection.
 23 A. I don't know.
 24 Q. Okay. Did anyone else have any, make
 25 any contribution to the drawings that were

1 Corelli
 2 rendered by Triarch?
 3 MR. MANDEL: Objection.
 4 You may answer.
 5 MR. ISRAEL: What's the basis for the
 6 objection?
 7 MR. MANDEL: Vague.
 8 MR. ISRAEL: You're limited to making
 9 objections as to form. So your objection is
 10 as to the form of the question?
 11 MR. MANDEL: Correct.
 12 Q. Can you answer my question?
 13 A. There were professional staff employed
 14 in the office that worked on document production.
 15 Q. You're talking about employed by
 16 Triarch?
 17 A. That's correct.
 18 Q. Anyone outside of the Triarch
 19 organization that made any contributions to the
 20 drawings that Triarch rendered?
 21 MR. MANDEL: Objection.
 22 A. No, I don't think we had any other
 23 consultants. I don't think so.
 24 Q. Did Vladimir Voronchenko make any
 25 contributions?

1 Corelli
 2 A. To the drawings?
 3 Q. Yes.
 4 A. No, he was the client.
 5 Q. So if he said to you, "I want
 6 something in this design," would that not be
 7 making a contribution to the drawings?
 8 MR. MANDEL: Objection.
 9 A. Well, that would be a clients's input
 10 in the thing, but he wouldn't be changing the
 11 drawings, no.
 12 Q. Well, he wouldn't be physically
 13 drawing --
 14 A. I thought that was your question.
 15 Q. No, it wasn't. My question is, would
 16 he be contributing anything that would be
 17 reflected in the drawings?
 18 MR. MANDEL: Objection.
 19 Q. Telling you that he wanted something
 20 in there that would be recorded in the drawing.
 21 A. Possibly.
 22 Q. Well, is it possibly or is it yes?
 23 MR. MANDEL: Objection, argumentative,
 24 asked and answered.
 25 A. It depends on the circumstances. You

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 2 know, he -- I can give -- with the bathroom, for
 3 example, he said it was too loft-like. So he
 4 wanted, he gave us suggestions for things that we
 5 should consider in the design of the bathroom.
 6 So when we were developing the design,
 7 we considered his input and tried to, you know,
 8 accommodate them as best we can.
 9 Q. Well, in accommodating him, did you
 10 ever use any of the ideas that he gave you and
 11 implement them in the drawings?
 12 MR. MANDEL: Objection.
 13 A. No.
 14 Q. You never did that?
 15 MR. MANDEL: Objection.
 16 Argumentative, asked and answered.
 17 Q. You can answer.
 18 MR. MANDEL: The tone of these
 19 questions is completely outrageous. What is
 20 not coming through on the record is that
 21 these questions are being shouted at the
 22 witness. It is a completely inappropriate
 23 form of questioning.
 24 Now, at this point, when Mr. Israel is
 25 getting an answer that he does not like,

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 2 he's simply asking the question again. So I
 3 object to that. And we're going to cut this
 4 off early if it continues.
 5 You should really ratchet down the
 6 tone.
 7 Q. Do you think that I'm shouting at you
 8 now?
 9 A. Not now.
 10 Q. Was I ever shouting at you earlier
 11 today? Honestly?
 12 A. I think you were a little belligerent.
 13 Q. You think I'm belligerent?
 14 A. You were.
 15 Q. Was I shouting at you?
 16 A. I think that you were being emphatic.
 17 Q. Emphatic. Okay. I tend to be
 18 emphatic. Excuse me if I'm emphatic. I don't
 19 mean to make you uncomfortable, I just have a
 20 client to defend and I have questions that I think
 21 are relevant and I'd like answers to them.
 22 A. I respect that, and believe me, I'm
 23 not uncomfortable. I'm a little warm, but I'm
 24 fine.
 25 Q. But you're not uncomfortable by

1 Corelli
 2 anything that I'm doing, am I right?
 3 A. Do I feel physically threatened?
 4 Q. Do you feel uncomfortable by
 5 anything --
 6 A. I'm fine.
 7 Q. Okay.
 8 MR. ISRAEL: Could you read him back
 9 the last question that I asked, please?
 10 (Record read.)
 11 Q. Did there ever come a time when
 12 Mr. Voronchenko told you that he wanted to have
 13 something in a design and you put that thing in
 14 the design? He said he wanted to have something
 15 in the design and you incorporated his suggestion
 16 into the design?
 17 A. Yes.
 18 Q. Okay. What were the instances where
 19 that happened?
 20 A. He wanted a very, very large
 21 flat-screen TV right in the middle of his living
 22 room. I tried to talk him out of it. What else
 23 specifically? Um -- that's the only specific
 24 thing that I can recall that he directed us to
 25 incorporate in the design.

1 Corelli
 2 Q. There may have been others but you
 3 don't recall, is that --
 4 A. No, because the process isn't like
 5 that. He doesn't come with a list and say, "Put
 6 this here," "Put this here," "Put this here."
 7 That's not the way the design process works.
 8 Q. Well, did he ever say that wanted a
 9 particular material to be used, for instance, on a
 10 door?
 11 A. No, it was more what he was trying to
 12 achieve in terms of an ambience, a character, a
 13 result.
 14 Q. Would he ever suggest a color that he
 15 wanted to be used?
 16 A. No, it was more, he would react to
 17 things. For example, when we started out with a
 18 paneling, he thought it was a little bit too
 19 literally historical. It was referencing, say,
 20 1930s decorative arts too literally. He said,
 21 "Can you work on that a little bit more. It
 22 should be somewhat more abstracted." So we did.
 23 Q. Now, can you see any reason why your
 24 colleague, who was deposed the other day, would
 25 testify that Mr. Voronchenko did say that he

1 Corelli
 2 wanted certain colors and that he did want certain
 3 materials? Is it because she would know more
 4 about this kind of thing or --
 5 A. Absolutely --
 6 MR. MANDEL: Objection.
 7 Mischaracterizes prior testimony.
 8 Argumentative. And calls for speculation.
 9 And I would just ask that you let him
 10 finish the question before you start to
 11 answer.
 12 THE WITNESS: I'm sorry.
 13 Q. You started to say "absolutely." Can
 14 you finish the "absolutely" part of it, because I
 15 think you only got up to "absolutely."
 16 MR. MANDEL: Objection.
 17 A. Michaela was much more involved were
 18 the project and the document production and the
 19 design development and construction documents than
 20 I was.
 21 Q. Okay. Earlier, do you remember there
 22 was a discussion of a group of some -- an
 23 architect in Russia who may have had some input
 24 into your designs? Do you recall that?
 25 A. No.

1 Corelli
 2 Q. All right. Let me show you the
 3 document, then. I'd like you to look at
 4 Exhibit number 24.
 5 MR. ISRAEL: Can you give him this,
 6 please.
 7 MR. McKEE: Off the record.
 8 (Discussion off the record.)
 9 MR. McKEE: Here's Exhibit 24.
 10 Q. If you look at 24, you'll see that
 11 there's an e-mail at the top that's transmitted to
 12 Michaela --
 13 A. Yes.
 14 Q. -- Deiss. And -- I'm sorry, from her.
 15 And it says, for your information, sent to another
 16 person, Aaron Boucher, and beneath it is an e-mail
 17 from Garry Braverman to Michaela, and finally,
 18 beneath that is yet another e-mail to Garry
 19 Braverman from somebody at an entity called -- at
 20 a company called Libracon, do you see that?
 21 A. I do.
 22 Q. So ultimately, within this chain of
 23 e-mails, I think we can conclude that Michaela
 24 received the bottom e-mail from, that was sent to
 25 Mr. Braverman, do you see that? You agree with

1 Corelli
2 that?
3 A. Maybe.
4 Q. All right. Well, are you familiar
5 with this company called Libracon?
6 A. No.
7 Q. Are you aware of whether or not, where
8 it says here, "I'm sending you latest drawings, I
9 hope that architect will understand, I made
10 correction on their models," do you see that?
11 A. Yes, I do.
12 Q. Did I read that correctly?
13 A. Yes, you did.
14 Q. Are you aware of whether a company
15 called Libracon had made any corrections on models
16 that had been provided by Triarch?
17 A. I'm not aware of that.
18 Q. Would this be something that Michaela
19 would have more knowledge about, about whether
20 this happened or not?
21 MR. MANDEL: Objection.
22 You can answer.
23 A. I don't know.
24 (Telephone interruption.)
25 Q. I'd like to you look at Exhibit number

1 Corelli
2 MR. MANDEL: Objection, you may
3 answer.
4 A. Because when this happened, we said,
5 "All right, the project is over, you know,
6 lawyers, MEs -- it was clear that they didn't want
7 to -- they wanted to terminate the project, so we
8 sent them a final bill and then, you know, we were
9 obviously very disappointed and that was that.
10 Q. When did you first have an inkling
11 that you were going to be terminated on the
12 project?
13 MR. MANDEL: Objection. He never said
14 he had an inkling that he was going to --
15 MR. ISRAEL: Excuse me, he definitely
16 did at some point. Like when he got the
17 letter, he had an inkling at that moment.
18 Q. I'm asking you when you first got an
19 inkling that you'd be terminated on the project.
20 A. Well, I had an inkling that I could
21 have had some difficulty when my soon-to-be
22 ex-wife said, "You can forget Voronchenko, I'm
23 going to kill that." That was how she put it.
24 Q. Can you tell me, and you may have said
25 this earlier, but I'm asking to you do it again,

1 Corelli
2 4. We'll put that aside for now. Take a look at
3 48, Exhibit 48, please.
4 I'm not going to ask you to read the
5 whole thing, I think you read it earlier; but I'm
6 going to direct your attention specifically to the
7 language in the middle of the first page where it
8 says that, "Triarch was retained," and it
9 continues after that, "With the further
10 understanding that Medallion would give its
11 written approval of schematic designs of each
12 aspect of the project before construction drawings
13 of the aspect were prepared."
14 Do you see that?
15 A. I do.
16 Q. Did I read that correctly?
17 A. I did.
18 Q. Is that truthful?
19 A. No.
20 Q. Did anyone write to Mr. Wise to
21 explain to him that that is not in fact the case?
22 A. No.
23 Q. To your knowledge?
24 A. Not that I'm aware of.
25 Q. And why is that?

1 Corelli
2 can you tell me when this took place
3 approximately?
4 A. This will be the condensed version. I
5 believe it was November or December of 2008.
6 Q. All right. I'd like to direct your
7 attention now to Exhibit 37. I apologize for
8 skipping around but I'm trying to do this as
9 methodically as I can.
10 (A pause in the proceedings.)
11 Q. If you look at the e-mail on the
12 second page --
13 A. Yes.
14 Q. -- where it's from Garry Braverman to
15 yourself and it's dated September 15th, 2008 --
16 A. Yes.
17 Q. -- there's a reference here to a
18 desire to get the Italians to start production.
19 "Our priority is to get" -- what is that a
20 reference to?
21 MR. MANDEL: Objection, asked and
22 answered.
23 You may answer.
24 A. That is a reference to the Italian
25 cabinetmakers that Vladimir had a relationship

1 Corelli
 2 with that he wanted to do the millwork for the
 3 project.
 4 Q. Okay. And how, if at all, was this
 5 addressed, the concern that's raised in this
 6 e-mail?
 7 A. I beg your pardon?
 8 Q. How, if at all, was this addressed,
 9 the concern that is raised in this e-mail, namely,
 10 getting the Italians started on production?
 11 MR. MANDEL: Objection, asked and
 12 answered. You may answer.
 13 A. Well, I believe I responded in e-mail
 14 form and tried to explain how the process worked
 15 so that they understood what we needed to do prior
 16 to starting to do paneling drawings.
 17 And once we had a -- some, you know,
 18 clarity about the scope and, you know, that we
 19 were going to be concentrating on redoing the
 20 rooms in their more-or-less current configuration,
 21 we started to develop some proposals for how the
 22 cabinetry might be -- the paneling might be done.
 23 And then we got, you know, Vladimir responded to
 24 the paneling, said it was a little too literal,
 25 try something else, and it was just part of the

1 Corelli
 2 design process, but they were anxious to -- they
 3 wanted to have these Italian millworkers work on
 4 the project.
 5 Q. Did they want you to do that before
 6 you commenced doing any construction drawings?
 7 A. Well, you can't do that. I mean, they
 8 are doing -- the paneling is based on the
 9 construction drawings. You can't just design -- I
 10 mean, it's for an apartment. It's like going into
 11 the rooms, you have to have the construction
 12 documents, you have to know kind of what's going
 13 where, how it fits, you know. It's a little more
 14 complicated than that.
 15 Q. Well then how could they have started
 16 this at all --
 17 A. They couldn't. They didn't know what
 18 they were doing. The Garry guy had -- he just --
 19 he wasn't knowledgeable about the process. And so
 20 part of my thing early on was to sort of try to
 21 explain to him the way this process worked.
 22 Q. Now, again, I'm jumping around. You
 23 can put that aside for a moment. Without taking
 24 out the drawings, the before, after and the middle
 25 drawings that we had before, but the documents

1 Corelli
 2 that were submitted to the building department --
 3 A. Okay.
 4 Q. -- the ones that were initially
 5 submitted by Garth Hayden, your draft, your
 6 drawings and then the one that was finally
 7 submitted by Garth Hayden --
 8 A. Okay.
 9 Q. -- what I want to know is what you
 10 sent to the Copyright Office, which I assume is
 11 the middle section, the drawings that you made.
 12 How much of those drawings included work that was
 13 done by Garth Hayden?
 14 MR. MANDEL: Objection.
 15 Q. You can answer.
 16 A. Work that was done? None.
 17 Q. None.
 18 A. None.
 19 Q. So is it your testimony that when
 20 Garth Hayden submitted documents, or when he
 21 submitted drawings to the buildings department,
 22 none of it was a contribution that was made by
 23 you?
 24 MR. MANDEL: Objection.
 25 A. The contribution that was made by

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 2 Garth Hayden was to define a scope of work and to
 3 get approval for that scope of work from the
 4 condominium board and from the Department of
 5 Buildings.
 6 In order to do that, he had to prepare
 7 pretty schematic -- pretty bare-bones drawings and
 8 that scope of work was what limited our design. I
 9 mean, we had to work within, you know, like I
 10 couldn't blow open the kitchen. I couldn't
 11 make -- I couldn't borrow two feet from an
 12 adjacent bedroom and change the library and do
 13 certain other things.
 14 And -- but that was it, really.
 15 Q. So it's fair for me to conclude, then,
 16 that there was nothing in Garth Hayden's drawings
 17 that are reflected in the drawings that you made.
 18 Absolutely nothing.
 19 MR. MANDEL: Objection, asked and
 20 answered. Mischaracterizes prior testimony.
 21 MR. ISRAEL: I'm asking.
 22 A. No, I mean, we did -- we did a scheme
 23 that was based on our design and based on our
 24 input from Vladimir.
 25 Q. Okay. And you didn't need anything

1 Corelli
 2 from the drawings that originally existed by
 3 Garth, is that right?
 4 MR. MANDEL: Objection, asked and
 5 answered. Several times now.
 6 A. What do you mean, "anything"?
 7 Q. To build, make your drawings, you
 8 didn't need any of the renderings that were
 9 previously prepared.
 10 MR. MANDEL: Hold on. I object. This
 11 is not just repetitive of questions that
 12 were asked of the prior witness and
 13 questions that have been asked of the
 14 witness, and he's now asking this question
 15 for the third or fourth time in a row.
 16 It's obvious he's harassing this
 17 witness, he's trying to intimidate this
 18 witness into changing his testimony and
 19 we're not going to continue if this --
 20 MR. ISRAEL: Are you instructing him
 21 not to answer?
 22 MR. MANDEL: No, he can answer.
 23 Q. Okay, so answer the question.
 24 A. So as I understand the question --
 25 what was the question?

1 Corelli
 2 know. And we measured up the apartment. We
 3 started doing our design.
 4 (Witness confers with counsel.)
 5 MR. McKEE: Make the call.
 6 (Recess taken.)
 7 MR. ISRAEL: Could you give him
 8 Exhibit number 38, please.
 9 (Document placed before the witness.)
 10 EXAMINATION (Cont'd.)
 11 BY MR. ISRAEL:
 12 Q. Would you look at the top of the page.
 13 This is a document that was produced by your
 14 lawyers in this case. The top of the page, it
 15 says, and this is from you, "We had a meeting this
 16 past week with the client to begin the process of
 17 as quickly as possible reworking much of what had
 18 been developed by a previous architect."
 19 A. I'm sorry -- oh, I see. Okay. Yeah,
 20 that's actually an e-mail from me.
 21 Q. Right.
 22 A. Okay.
 23 Q. So you're saying here that you had
 24 reworked, you commenced reworking the work of a
 25 previous architect. What architect is that whose

1 Corelli
 2 MR. MANDEL: It's the same question
 3 you've been asked three or four other times.
 4 (Record read.)
 5 A. We did not. And in fact, I had some
 6 difficulty earlier on today identifying that
 7 material that had been prepared by Mr. Hayden
 8 before we were involved. When we were engaged,
 9 one of the first things that we did was measure
 10 the apartment.
 11 Q. So why did you write Mr. Braverman
 12 that, "If you would get the AutoCAD file for the
 13 existing layout to me, we could get started"? Why
 14 did you write him that?
 15 MR. MANDEL: Objection.
 16 A. Because we need the -- if you look in
 17 the standard agreement, the owner provides the
 18 survey of -- or documents of the apartment so that
 19 we can start designing. We need the as-built
 20 conditions to start working on our -- to start
 21 doing our work.
 22 So they gave us a couple of plans.
 23 One of them may have even been -- I think it was
 24 even from the marketing materials or maybe it was
 25 one of the plans that we saw earlier, I don't

1 Corelli
 2 work you've been reworking?
 3 MR. MANDEL: Objection.
 4 THE WITNESS: Can I answer?
 5 MR. MANDEL: If you can answer.
 6 A. I'm not sure, but I think this person
 7 had been shown a whole bunch of different -- had
 8 been kind of back-and-forth with Vladimir. I
 9 mean, you can ask him, he's your client. But I
 10 think that it was basically, I was trying to keep
 11 her at bay because they were saying, "Oh, we have
 12 a construction manager. They can give us a price,
 13 they can do this."
 14 And we had just started the project.
 15 We just started design. They weren't willing to
 16 hire a construction manager as a consultant. But
 17 they were, like, can we start feeding them stuff
 18 for pricing, and it was a little bit like the
 19 situation with the Italians.
 20 We were just starting the process and
 21 it, you know, we weren't ready for a construction
 22 manager to start being able to do, you know,
 23 quantity takeoffs or some kind of, you know,
 24 costing for the work that we were doing, because
 25 we were just, you know, we were starting the

1 Corelli
 2 project. We were doing schematic design.
 3 So I was trying to, you know, I told
 4 him we were just getting started, we had -- what
 5 did I say after that, hopefully, we'll -- so until
 6 we have done that, issues of pricing,
 7 subcontractor involvement, and so forth, are still
 8 up in the air.
 9 Q. So whose work had you been reworking?
 10 MR. MANDEL: Objection. Asked and
 11 answered. You've --
 12 MO MR. ISRAEL: Move to strike the last
 13 answer.
 14 MR. MANDEL: If you have anything to
 15 add to your previous answer, you --
 16 MR. ISRAEL: I move to strike. I'd
 17 like an answer to my question.
 18 Q. Whose work --
 19 MR. MANDEL: Asked and answered.
 20 MR. ISRAEL: That's fine.
 21 Q. Whose work had you been -- architect's
 22 work had you been reworking?
 23 MR. MANDEL: Objection, asked and
 24 answered.
 25 A. I have nothing to add to what I've

1 Corelli
 2 said.
 3 Q. You refuse to answer the question?
 4 MR. MANDEL: Objection. Don't
 5 respond. He's now arguing with you.
 6 Q. I'm reading the language from your
 7 e-mail. It says that you've been reworking much
 8 of what had been developed by a previous
 9 architect. See that language?
 10 A. Yes.
 11 Q. Does that sentence mean anything to
 12 you?
 13 MR. MANDEL: Objection, asked and
 14 answered.
 15 Q. Does it mean anything? Are you able
 16 to understand it?
 17 MR. MANDEL: Asked and answered. This
 18 was covered extensively in Mr. McKee's
 19 questioning and now Mr. Israel is repeating
 20 this exact same question for the third or
 21 fourth time.
 22 MR. ISRAEL: There's no need to do
 23 that. Are you instructing him not to answer
 24 or not? Are you?
 25 Q. Okay, then answer the question,

1 Corelli
 2 please. What does that mean, whose work were you
 3 reworking, what architect's work are you --
 4 MR. MANDEL: He's now asking the
 5 question for the fifth --
 6 MR. ISRAEL: Will you let him answer
 7 the question? You want --
 8 MR. MANDEL: Please don't interrupt
 9 me. You can ask your next question when I'm
 10 done making my objection.
 11 If you have anything to add, you may
 12 do so at this time.
 13 A. Well, I just -- I just -- I may be
 14 repeating myself, but we had -- there have been a
 15 number of different architects and interior
 16 designers who had been involved in the project,
 17 and we were brought in, there was a -- and we were
 18 basically starting from scratch, and they were
 19 trying -- I don't know if Garry or Vladimir,
 20 somebody wanted us to deal with this construction
 21 management person who wanted to start bidding
 22 documents, and it's like we weren't ready for it.
 23 So it was a kind of a generic, like,
 24 we're working, we've had all this other stuff, and
 25 you know, we'll let you know as soon as we have

1 Corelli
 2 anything you can look at.
 3 Q. Does this sentence refer to more than
 4 one architect or does --
 5 A. There was --
 6 MR. MANDEL: Objection.
 7 Q. -- refer to one architect?
 8 A. There was a whole bunch of schemes
 9 that different people had done.
 10 Q. Does this refer to a whole bunch of
 11 schemes, this e-mail, or does it refer to the work
 12 by a previous, singular architect?
 13 MR. MANDEL: Objection.
 14 A. I think you're making much more out of
 15 this than exists.
 16 Q. I'm just reading the language, that's
 17 all.
 18 MR. MANDEL: Objection.
 19 A. I know, but it's --
 20 MR. MANDEL: Don't argue with him. If
 21 you have something else to say, say so.
 22 A. I have nothing to add.
 23 Q. So your answer is, is there more than
 24 one architect that's being referred to in this
 25 e-mail? That's the question.

1 Corelli
 2 MR. MANDEL: Objection.
 3 A. I don't recall.
 4 Q. Okay. I'd like you to look at
 5 Exhibit number 30, please.
 6 MR. ISRAEL: Would you please hand him
 7 Exhibit number 30.
 8 (A pause in the proceedings.)
 9 A. Okay.
 10 Q. All right. We discussed this a little
 11 bit earlier but I'd like you to look at the second
 12 page, where there's a reference, I think, to a
 13 meeting at the job site with Voronchenko. Do you
 14 see that?
 15 A. Is that the -- at the top of the page,
 16 it says 515 Park Avenue, 40119?
 17 Q. Right.
 18 A. Okay.
 19 Q. Yes. Now, does this list encompass
 20 things that Mr. Voronchenko said that he was
 21 interested in having implemented in your design,
 22 in your drawings?
 23 A. Well, I don't know. These were
 24 Michaela's meeting notes, so I don't know if these
 25 were things they talked about, she suggested, he

1 Corelli
 2 A. Well, typically when you're designing
 3 an apartment for somebody, the client will have
 4 things that they will want you to consider, things
 5 that they might like, things that they will
 6 suggest they might like to see in the design.
 7 Q. So if it says, for instance, "Library
 8 ceiling lights around a gold border," that would
 9 be something that Mr. Voronchenko came up with,
 10 right?
 11 MR. MANDEL: Objection.
 12 Mischaracterizes prior testimony.
 13 A. That I don't know. Like --
 14 Q. I'm not mischaracterizing. I'm asking
 15 you if that's something that Mr. Voronchenko would
 16 have suggested?
 17 MR. MANDEL: Objection.
 18 A. Let me try to help with you this. A
 19 little further along it says, "Cheryl Wagner
 20 hardware with stone to be considered."
 21 Now, I don't know in your familiar
 22 with Cheryl Wagner products but they are ugly as
 23 sin. So we would say we'd consider it but we
 24 would find something much nicer, as an example.
 25 Q. But ultimately it was his decision as

1 Corelli
 2 thought she should consider, I have no idea.
 3 Q. So these are things that I should ask
 4 her at a deposition.
 5 MR. MANDEL: Objection.
 6 Q. Right? You don't know the answer to
 7 them so I should ask her, right?
 8 MR. MANDEL: Objection.
 9 Q. He can't record that when you flip
 10 your hand like that --
 11 A. I can't tell you how to do your job
 12 or --
 13 Q. But she's the person who would have
 14 information about this --
 15 A. I believe that she prepared this.
 16 Q. Now, if you look at a few pages later
 17 where it says, "Meeting 515 Park Avenue," it also
 18 says 1/14/09, but the first entry it says, "Lobby,
 19 leather." Do you see that?
 20 A. I do.
 21 Q. Isn't it the case that Mr. Voronchenko
 22 was suggesting fabric that he wanted to have used
 23 in the apartment when it says "leather" and then
 24 it says living room suede?
 25 MR. MANDEL: Objection.

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 2 to what would be used and what wouldn't be used,
 3 correct?
 4 MR. MANDEL: Objection.
 5 Q. If he didn't want something, you
 6 weren't going to force it on him, would you?
 7 MR. MANDEL: Objection.
 8 A. I couldn't, he's the client.
 9 Q. Exactly. Now, if you look at the next
 10 page where says, "Telephone notes," and it says,
 11 in the middle of the page, it says, "Don't make
 12 corridor larger for more than five centimeters if
 13 it was not permitted in the drawings."
 14 Do you see that?
 15 A. I do.
 16 Q. Do you know what that's a reference
 17 to?
 18 A. That's a reference to Vladimir's
 19 concern about the condo board approval. And he
 20 was worried, I think, he was possibly worried
 21 about our design having to be reconsidered by the
 22 condo board. He was very gun-shy about that.
 23 Q. So did you make an effort to have the
 24 design comport with that which had been approved
 25 already by the board?

1 Corelli
 2 MR. MANDEL: Objection.
 3 A. Yes, we did.
 4 Q. And how did that occur? How did you
 5 make that effort? What did that involve?
 6 A. Well, it involved scaling back the
 7 original -- in our initial meeting with him, we --
 8 and at his, you know, he was very excited about
 9 it, we proposed a plan. And our first
 10 presentation was a plan that actually drew -- it's
 11 the plan I showed you, where we were going to do a
 12 much more extensive intervention.
 13 And he loved the plan. He walked
 14 around with it for a week and then he decided,
 15 "You know what? I can't deal with going through
 16 the whole condo board again," because he was in
 17 his previous -- I think he told me it took him
 18 like ten months or something to get approval for a
 19 very minor scope of work.
 20 I think he was just concerned that the
 21 project would be delayed if we did this ambitious
 22 thing. So he said, "You know, just do the design,
 23 try to limit yourself, you know, to more or less
 24 what they have approved."
 25 Q. All right. And in doing that, isn't

1 Corelli
 2 it the case that you had to use the drawings that
 3 were prepared by Garth Hayden which reflected that
 4 which was acceptable to the condo board?
 5 MR. MANDEL: Objection. Asked and
 6 answered several times.
 7 Q. You can answer the question.
 8 A. As I've said before, the scope of work
 9 that Mr. Hayden's drawings envisioned was a
 10 limiting factor for our design. It wasn't as
 11 though his -- you know, that -- Garth Hayden
 12 didn't really design anything. He did a layout
 13 and said, you know, "This is a scope of work."
 14 And we were told that we should work within that
 15 limited scope of work.
 16 Q. But it was the layout --
 17 MR. MANDEL: Objection.
 18 A. But the design -- I mean, look at all
 19 the drawings we did. The design work that we did,
 20 our work product isn't a quarter-inch layout. I
 21 mean, this is four-and-a-half, five months of
 22 intensive work. It's not a basic layout on a
 23 plan.
 24 Q. Right. But it's within the confines
 25 of a layout that was prepared before you. You did

1 Corelli
 2 it within those confines, correct?
 3 MR. MANDEL: Objection, asked and
 4 answered. Several times.
 5 A. It's just a copy of work. It's
 6 just -- it's like -- I mean, I don't know how else
 7 to put it.
 8 MR. MANDEL: Don't repeat yourself.
 9 Feel free if it's a new question to provide
 10 new information. If it's an old question
 11 that you've already answered, just say so.
 12 He doesn't like your answers so he's asking
 13 the question again and again in the hopes
 14 that you'll change your testimony.
 15 MR. ISRAEL: No, I'm just trying to
 16 get an answer to my questions. You know
 17 that, or you should know that if you've been
 18 practicing law.
 19 Q. All right. I'm going to direct your
 20 attention to -- actually, this one I don't think
 21 has been marked yet. It's a little bit different
 22 than what you've been looking at earlier.
 23 MR. ISRAEL: So I'm going to mark as
 24 Exhibit 53 a compendium of e-mails, some of
 25 which may have been included in your earlier

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 2 exhibit, but for the sake of thoroughness,
 3 I'm having this marked separately because it
 4 seems to be more.
 5 EXH (Defendant Exhibit 53, e-mail chain
 6 produced by Medallion, not Bates stamped,
 7 marked for identification, as of this date.)
 8 Q. Could you take a moment to look
 9 through that document.
 10 A. Sure.
 11 (A pause in the proceedings.)
 12 MR. MANDEL: Was this document
 13 produced by Medallion?
 14 MR. ISRAEL: Yes.
 15 MR. MANDEL: Okay. So just so the
 16 record is clear, this document, Exhibit 53,
 17 was produced by Medallion, however, for
 18 whatever reason, this copy has no Bates
 19 stamps on it.
 20 MR. ISRAEL: That's right. It should
 21 have been produced. I just took this
 22 because it was the most convenient for me
 23 today.
 24 (Witness perusing document.)
 25 Q. I'd like to direct your attention to

1 Corelli
2 the text in the second page where it appears to be
3 an e-mail from you to Mr. Braverman.
4 A. Yes.
5 Q. And it says, "This number is a
6 reasonable estimate," and there's a discussion of
7 what the estimate is.
8 A. Yes.
9 Q. What, can you in your own words tell
10 me what that means, what the estimate was that you
11 were providing?
12 A. Yes, sure. First of all, and
13 parenthetically, this e-mail that I wrote was in
14 response to the e-mail that Mr. Braverman wrote to
15 me on December 10th that we covered in the earlier
16 deposition with Mr. Hayden's attorney, and it is a
17 response to -- my e-mail is a response to that one
18 in which I tried to clarify Garry's
19 misunderstanding of the bill, I think.
20 Q. All right.
21 A. Actually, you know something? This
22 appears to be completely out of order because this
23 e-mail is actually not in response to this e-mail.
24 It's in response to another e-mail that is the one
25 I referred to that we spoke to earlier. So your

1 Corelli
2 e-mail chain here is defective. I'd just point
3 that out to you.
4 Q. It could be, and if that's the case, I
5 apologize.
6 A. That's quite all right. Anyway, I
7 said that our budget -- anyway, in responding to
8 the correct e-mail, not this one, I said, "First
9 of all, I want to apologize for the invoice format
10 which is a little obscure. With this note I would
11 like to clarify it. I'm assuming that the budget
12 for this project including millwork will be
13 approximately \$800,000. This number is a
14 reasonable estimate but obviously it could change.
15 Our fees for this work on a project would then be
16 800,000 times 17 percent," yadda-yadda yadda, and
17 then it just kind of describes everything.
18 Q. So you were anticipating that the fees
19 on the project would be at \$136,000, correct?
20 A. At that time. But we obviously knew
21 it could change. It also depends very much on the
22 scope. And this is typical of virtually every
23 project that we work for. Unless we're given a
24 specific scope, you know, we'll give the client
25 initially some guidance in terms of what they

1 Corelli
2 could reasonably expect to spend. And we told, in
3 this case, I guess, our assumption was they were
4 going to spend a minimum of about \$800,000 on
5 construction costs.
6 But I mean, that number, you could add
7 a zero to that if you want. It just depends on
8 what the client, you know, how ambitious they want
9 to be for the work.
10 Q. Sure. But this is pretty far along
11 because it says here, "We've completed the
12 schematic and design development" --
13 MR. MANDEL: Objection.
14 A. Yes, schematic and design development
15 is not that far along. The other thing is, with
16 Vladimir, he would --
17 Q. Says you've even --
18 MR. MANDEL: Objection, now you're
19 interrupting the witness.
20 MR. ISRAEL: I'm sorry.
21 A. So just so that you understand the
22 process, as you're doing this, even when you're in
23 design development, and we even start doing CDs
24 for some parts of this, we are dealing with a
25 client who would come back and say, you know, "You

1 Corelli
2 did all of this work. But you know what? Now
3 that I see it" -- and for a lot of this, because
4 we had to do highly detailed three-dimensional
5 renderings, we actually had to give the renderer
6 specific, like, detailed information. You can see
7 it in our plans, for, like, profiles of things and
8 materials, and proportions and so forth.
9 So we were actually generating full
10 CDs on certain parts of it just in order to do the
11 three-dimensional renderings. And then he would
12 change his mind. So that's why you, you know,
13 normally you finish design development and then
14 you go into construction documents. Here there
15 was a bit of an overlap just because of the
16 process.
17 Oh, by the way, looking here, your --
18 this thing -- this e-mail is actually a response
19 to this one (indicating) not this one
20 (indicating).
21 Q. You have to be a little bit more --
22 could you refer by the pages than --
23 A. The page, the third page that says,
24 "Subject, Phase I," in Garry's -- maybe it's this
25 one. Yeah. Phase I, I think my e-mail is a

1 Corelli
 2 response to this e-mail.
 3 Q. Okay. I got it. That actually makes
 4 sense. All right.
 5 THE WITNESS: You know, while you're
 6 reviewing that, I'll be right back.
 7 MR. ISRAEL: Go ahead.
 8 (Recess taken.)
 9 EXAMINATION (Cont'd.)
 10 BY MR. ISRAEL:
 11 Q. Had Triarch completed a hundred
 12 percent of the designs that it was supposed to do?
 13 A. When we were terminated?
 14 Q. Yeah, by the time you were terminated?
 15 A. No.
 16 Q. How much more remained to be done?
 17 A. You know, I know we didn't bill. I
 18 think we only billed like, I'm not sure. It's
 19 like 80 or 90 percent. We were very, very far
 20 along, though. The -- in order to put, to finish
 21 those 19 or 20 sheets or whatever, and get them
 22 ready for issuing it as a full, complete bid sets,
 23 it was a fairly de minimis amount of work.
 24 Q. Well, what did you register for
 25 copyright protection if they weren't completed?

1 Corelli
 2 Did you complete it and then register or did you
 3 register that which had been done but not
 4 completed?
 5 A. I believe we registered wherever we
 6 were at the time that the attorney copyrighted it.
 7 But it was far enough along that Mr. Voronchenko
 8 was able to take the construction documents and
 9 give them to a cabinetmaker and apparently have it
 10 fabricated, so...
 11 Q. Do you know that for a fact, that
 12 that's what happened?
 13 A. I believe so. My partner actually
 14 went to the millworking place in Italy and saw
 15 portions of it being assembled.
 16 Q. And how would they have gotten those,
 17 the designs to do that work, to assemble them?
 18 A. I believe Garry sent them the drawings
 19 that we'd given them. They were also working off
 20 the prospectives a lot, which is why they were
 21 doing those kind of shop drawings.
 22 Q. Was there any indication on the
 23 copyright application that was filed for the
 24 drawings that they had not been completed yet?
 25 A. I don't know.

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 2 MR. MANDEL: Objection.
 3 Q. Do you have a copy of the application
 4 that was filed?
 5 A. Which application?
 6 Q. The application for copyright
 7 protection?
 8 A. Do I personally have one? No.
 9 Q. Does your lawyer have one?
 10 A. I don't know. I presume so. I don't
 11 know.
 12 MR. ISRAEL: I haven't seen it.
 13 THE WITNESS: Are we able to ask you?
 14 MR. MANDEL: He's just asking you what
 15 you know.
 16 A. I don't know.
 17 Q. Well, I'll ask your counsel on the
 18 record to say whether he has a copy of it or not.
 19 MR. ISRAEL: Do you?
 20 MR. MANDEL: I don't believe I have a
 21 copy of it. I have looked for it to try and
 22 get it to you guys because I sensed you
 23 wanted it although I'm not sure there was a
 24 formal request, and I couldn't find it. And
 25 I'm in the process of reaching out to the

1 Corelli
 2 prior counsel to try and obtain a copy.
 3 Q. Do you recall having signed the
 4 copyright application?
 5 A. I don't recall. I -- I may have.
 6 Q. I don't want you to guess. If you
 7 don't remember, you don't remember.
 8 A. No, I know I don't recall.
 9 Q. Okay. So I gather, if I ask you who
 10 is listed as the author of the drawings, you won't
 11 know that either because you don't recall the
 12 application.
 13 A. Yeah.
 14 Q. So we have to see the application to
 15 know what it says, right?
 16 (A pause in the proceedings.)
 17 Q. Now, if the drawings weren't
 18 completed, I'm going to ask you another
 19 hypothetical question:
 20 If the drawings weren't completed and
 21 the ultimate drawings that were used by Medallion
 22 weren't completed, were prepared by Garth Hayden,
 23 is it fair to say that something additional, at a
 24 minimum, something additional had to have been
 25 done to your drawings so that they would have been

1 Corelli
 2 ready for construction?
 3 MR. MANDEL: Objection.
 4 A. No, actually, it's exactly the
 5 opposite.
 6 Q. Why is that?
 7 A. Well, because if you review the
 8 drawings that we did, and the, all 19 sheets of
 9 them, and you see how much detail is in them, and
 10 you're trying to build something, and then you
 11 look at Mr. Hayden's drawings, he took in a sense
 12 summaries, like, of our elevations and all the
 13 rest of it.
 14 But there are all sorts of details and
 15 other information in our drawings that a
 16 cabinetmaker or a contractor would be very much
 17 aided by in trying to build what we designed to
 18 have. If he didn't have them, it would be a lot
 19 harder.
 20 And I have no doubt that when we see
 21 the work that is installed, while it will be a
 22 version of what we designed, it's not going to be
 23 nearly as good as it would have been if we'd been
 24 able to continue the process through.
 25 Q. So Garth Hayden's drawings are very

1 Corelli
 2 A. His just don't have the detail --
 3 MR. MANDEL: Just answer the question
 4 if you can.
 5 A. But the question was --
 6 Q. The question is, are they very
 7 different in terms of the detail?
 8 MR. MANDEL: Same objection.
 9 A. Those drawings that Mr. Hayden
 10 incorporated in his drawings, the elevations, the
 11 specific drawings, are very closely based on our
 12 drawings.
 13 In addition to those drawings, we
 14 prepared additional drawings that Mr. Hayden did
 15 not incorporate in his DOB set.
 16 Q. So those aren't the basis for this
 17 lawsuit, though, those other drawings, are they?
 18 MR. MANDEL: Objection.
 19 Q. Are those other drawings the basis for
 20 the lawsuit?
 21 MR. MANDEL: Objection, calls for a
 22 legal conclusion.
 23 A. I have no idea.
 24 Q. Do you want me to hand you your
 25 complaint that you filed to determine whether they

1 Corelli
 2 different from yours because --
 3 A. No, no. No --
 4 Q. You have to let me finish the
 5 question.
 6 A. Okay.
 7 Q. You have to let me finish the
 8 question.
 9 MR. MANDEL: Please don't interrupt
 10 him.
 11 Q. I'm trying to understand what you
 12 said. You said that there's a great difference,
 13 and you can tell me if I'm wrong, that his
 14 drawings are far less detailed than your drawings,
 15 is that not correct?
 16 A. That is correct. His drawings don't
 17 have all the detail that ours have.
 18 Q. So they are very different?
 19 MR. MANDEL: Objection.
 20 A. No, they are not different.
 21 Q. They are not different but they are
 22 greatly different in terms of not having as much
 23 detail?
 24 MR. MANDEL: Objection,
 25 mischaracterizes prior testimony.

1 Corelli
 2 were the basis --
 3 MR. MANDEL: If you want to hand him a
 4 complaint, that's not actually a question.
 5 MR. ISRAEL: All right. Off the
 6 record.
 7 (Discussion off the record.)
 8 MR. ISRAEL: I'm going to hand the
 9 witness what was previously marked. It is
 10 the proposed first amended complaint but
 11 there's some confusion as to what the
 12 marking is.
 13 A. All right, so what's the question?
 14 Q. Isn't it a fact that you're claiming
 15 that your work was copied in the drawings that
 16 were submitted by Garth Hayden to the Department
 17 of Buildings?
 18 MR. MANDEL: Objection.
 19 Q. And if you -- you could look at
 20 paragraph 17 to see if I'm getting that correctly.
 21 MR. MANDEL: Objection.
 22 A. So the question is, did Garth Hayden
 23 copy our drawings into the DOB drawings that he
 24 amended?
 25 Q. The question is, is that the basis for

1 Corelli
 2 your suit, the copying that took place in the DOB
 3 drawings.
 4 MR. MANDEL: Same objection.
 5 A. I'm sorry, I don't understand the
 6 question.
 7 Q. The question is, you're suing Garth
 8 Hayden for copying your drawings, correct?
 9 A. Yes.
 10 Q. Okay. And the copying that you're
 11 suing over took place in connection with the
 12 drawings that were submitted to the Department of
 13 Buildings, correct?
 14 MR. MANDEL: Objection.
 15 A. That Garth Hayden provided to the
 16 Department of Buildings?
 17 Q. Yes.
 18 A. Yes.
 19 Q. Okay. So the question is, that I'm
 20 asking you now, that brought us to this document
 21 is, I'm saying, you're not suing over any other
 22 drawings. You're suing over the drawings that
 23 were submitted to the Department of Buildings and
 24 you're claiming those drawings comprise the
 25 copyright infringement, isn't that correct?

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 2 MR. MANDEL: Objection.
 3 A. Well, I believe that's -- I think I'm
 4 also suing because the drawings were used in the
 5 main to build the apartment.
 6 Q. What drawings?
 7 A. That we prepared.
 8 Q. But which drawings that you prepared?
 9 A. The drawings that are behind you.
 10 Q. Okay. So where is that in your
 11 complaint?
 12 MR. MANDEL: Objection.
 13 A. I don't understand why we're doing
 14 this.
 15 MR. MANDEL: I don't understand why
 16 we're --
 17 Q. We're doing it because you brought a
 18 lawsuit against my client and against Mr. Hayden
 19 and we're entitled to ask you questions about the
 20 basis for your copyright infringement claim. And
 21 if it's not clear to us, we have to find out the
 22 basis for it.
 23 I showed you an allegation that refers
 24 to copying that took place in something that was
 25 filed with the Department of Buildings. You seem

1 Corelli
 2 to have expanded your claim during the course of
 3 this deposition. I'm trying to understand what
 4 you've expanded to.
 5 You're now saying that's not just the
 6 drawings that were submitted to the Department of
 7 Buildings and that it's something else. I'm
 8 trying to understand exactly what that is.
 9 MR. MANDEL: Objection.
 10 A. Okay.
 11 MR. MANDEL: Asked and answered.
 12 A. Okay. I'm not a lawyer. So you'll
 13 forgive me if I'm technically deficient in terms
 14 of answering your question. But as I understand
 15 it, taking our drawings and incorporating them in
 16 a DOB application without our authorization is
 17 something you're not supposed to do, nor is, was
 18 your client supposed to take our drawings, which
 19 he didn't pay us for, and then use those drawings
 20 to build his apartment.
 21 That's what I understood the whole
 22 purpose of the copyright action to be about. Now,
 23 I'm not a lawyer, so I may be phrasing it
 24 incorrectly, I may not even understand the
 25 complaint or the way it was drafted because I'm

1 Corelli
 2 not a lawyer. But that's the basis of, you know,
 3 the damage that we've suffered in this proceeding.
 4 Q. So you're saying the copying is not
 5 only in the drawings that were filed in the
 6 Department of Buildings but, the actual layout of
 7 the apartment is a copy of your drawing?
 8 MR. MANDEL: Objection.
 9 A. Well, I don't know, since I haven't
 10 seen the apartment. You've been apparently --
 11 it's been difficult to get in to actually see what
 12 was built. But we do know from Michaela's visit
 13 to the cabinetmaker in Italy that it would appear,
 14 from when she was there, that you were using order
 15 our to fabricate, I think she saw the library and
 16 some other stuff.
 17 And if we look at Mr. Hayden's
 18 drawings, it would appear what's been filed with
 19 the DOB is a simplified version of what we
 20 designed.
 21 Q. All right. So is it fair to say that,
 22 putting together the two thoughts, that the basis
 23 for the lawsuit, the -- the basis for the lawsuit
 24 is the drawings that Mr. Hayden filed with the
 25 Department of Buildings and the renderings that

1 Corelli
 2 were done in Italy, based upon --
 3 A. No, not renderings, there were --
 4 Q. No, not renderings, just --
 5 MR. MANDEL: Let him finish.
 6 Q. Why don't you tell me how you would
 7 describe it.
 8 MR. MANDEL: Objection.
 9 You may answer.
 10 A. The millwork. They were building the
 11 apartment and -- in Italy. They were building the
 12 millwork for the library and maybe some other
 13 elements of it. And Michaela saw that.
 14 Q. I see.
 15 A. You know, given the behavior, it's
 16 entirely possible that your client basically just
 17 directed Mr. Hayden to incorporate into his
 18 drawings our work and, you know --
 19 Q. Well, I'm asking you what you know
 20 today. I don't mean to interrupt you. Were you
 21 done with what you're saying?
 22 A. You can interrupt me. I was rambling
 23 as usual.
 24 Q. No, you -- what I'm trying to get
 25 clear on today, is, I'm not asking to you

1 Corelli
 2 base that on?
 3 A. Well, I base that on a kind of, a
 4 careful analysis that we did of his post-approval
 5 amendment DOB filing with the drawings that were
 6 prepared in our office for the interior elevations
 7 for the different rooms that we designed.
 8 And they are basically -- the graphics
 9 are a little bit different, you know. Our
 10 drawings are a little more elegant, but it's
 11 basically the same design. There are a couple of
 12 things that have been tweaked that we noticed; for
 13 example, in the library, those LaLique panels that
 14 we never had an opportunity to incorporate into
 15 the design were just added in a very inelegant and
 16 awkward way into the library. But other than
 17 that, it's the same library that we designed.
 18 Q. Okay. I guess my -- I guess I wasn't
 19 clear on my question. What you just described,
 20 you're drawing a conclusion based upon the
 21 similarity of the pictures. That's what you're
 22 doing. But you don't have any direct knowledge of
 23 a copying that took place; is that --
 24 MR. MANDEL: Objection.
 25 A. I was talking about Hayden's office.

1 Corelli
 2 speculate on what may or may not have happened.
 3 I'm asking you what you're aware of now.
 4 What you're aware of is that the
 5 millwork was duplicative or was a copy of your
 6 drawings, of a portion of your drawings?
 7 A. That's correct.
 8 Q. And from your perspective, the
 9 drawings that were designed by Garth Hayden were
 10 copies of your drawings.
 11 A. That's correct.
 12 Q. That's it. You're not aware of,
 13 personally aware, you don't have a direct
 14 knowledge of any other copying that took place?
 15 A. I think that about covers it.
 16 Q. Now, are you aware, other than
 17 circumstantially, are you aware of -- do you have
 18 any facts at your disposal that show that a
 19 literal copying took place, namely that Mr. Hayden
 20 literally copied your drawings when he prepared
 21 the drawings that were submitted to the Department
 22 of Buildings?
 23 MR. MANDEL: Objection.
 24 A. Yes.
 25 Q. What is that information? What do you

1 Corelli
 2 But if it walks like a duck and it talks like a
 3 duck, I mean, if the drawings are the same, the
 4 drawings are the same or largely the same. And if
 5 Michaela goes to Italy and she sees them making
 6 our drawings, and she has a conversation in
 7 Italian with the guy, and he even said, "Here's
 8 your library, here's your soffit, doesn't this
 9 look beautiful," he doesn't know what was going
 10 on.
 11 So...
 12 MR. ISRAEL: Why don't you take a
 13 minute. Find out if you're staying or
 14 going.
 15 (Recess taken.)
 16 EXAMINATION (Cont'd.)
 17 BY MR. ISRAEL:
 18 Q. I'd like you to look at Exhibit number
 19 25.
 20 MR. ISRAEL: Could you hand him 25,
 21 please?
 22 MR. McKEE: I can.
 23 (Document placed before the witness.)
 24 MR. McKEE: That's the December 8
 25 e-mail?

1 Corelli
 2 MR. ISRAEL: That's right.
 3 Q. Could you tell me what the purpose was
 4 in providing the pictures of the LaLique panels to
 5 Michaela? If you know. I mean, to Aaron at
 6 Triarch, and Michaela?
 7 A. Well, I'm looking at an e-mail which
 8 is from VIP to Michaela. I don't see anything to
 9 do with Aaron on this.
 10 Q. If you look at the top, it's from
 11 Michaela to --
 12 A. Oh, I'm sorry. Yeah, she's just
 13 forwarding it so that he's in the loop as, you
 14 know, it's just like, so that everybody's, you
 15 know, knows, like the project file or whatever.
 16 Q. And, but why, what was the concern,
 17 why is it that you needed the pictures of the
 18 LaLique for what you were doing?
 19 A. Well, this is something that I guess
 20 Vladimir bought and he wanted to see if we could
 21 incorporate them in the design of the library,
 22 like that.
 23 Q. By the way, when did the Italians
 24 start working on the millwork for using your
 25 designs? Do you know when that started to take

1 Corelli
 2 and not pay us, is the question, should they have
 3 been able to continue using our design to
 4 fabricate the millwork?
 5 Q. No, that is not the question. The
 6 question is, you've been getting paid by
 7 Medallion.
 8 A. Okay.
 9 Q. And at a certain point, the designs
 10 were provided to the mill, to the Italians, and
 11 they started doing the work based upon the
 12 design --
 13 A. No -- okay, sorry.
 14 Q. This is my hypothetical.
 15 A. Okay.
 16 Q. They started doing the work based upon
 17 the designs that were prepared. Medallion is
 18 paying for their work. Should Medallion dispose
 19 of their work once Triarch is fired?
 20 MR. MANDEL: Objection, calls for a
 21 legal conclusion and asked and answered.
 22 Q. You can answer.
 23 A. Well, I mean, their alternative I
 24 guess would have just been to say, "We're
 25 terminating you and what do we owe you, and we'd

1 Corelli
 2 place?
 3 A. I don't. I presume it was after we
 4 were terminated.
 5 Q. But if it wasn't after you were
 6 terminated, would there be something wrong with
 7 that? If it was before you were terminated and
 8 they started doing the work at that time, what
 9 should have happened, should that work have just
 10 been disposed of?
 11 MR. MANDEL: Objection, calls for a
 12 legal conclusion.
 13 Q. I'm asking for your understanding.
 14 Let's say the millwork started already before you
 15 were terminated and let's say that Medallion was
 16 paying for it, paying for that work to be done by
 17 the Italians. Would that work, should that work
 18 have just been disposed of once you were
 19 terminated, and not used?
 20 MR. MANDEL: Same objection.
 21 Q. You can answer.
 22 A. You mean if they hired us to do a
 23 design, and we did all the work, and they gave it
 24 to somebody else to start using it so they could
 25 have the design, and then they decided to fire us,

1 Corelli
 2 like to continue to use the drawings such as they
 3 are. How do we go about that?"
 4 We would have had a conversation about
 5 it. We probably would have tried to talk them
 6 into -- I mean, for their own good, because you
 7 know, I'm sure that when we do see the apartment
 8 it won't be nearly what it could have been, you
 9 know, we'd probably try to talk them out of that
 10 for their own good.
 11 But at least in a situation like that,
 12 at a minimum, I would have thought they would have
 13 paid their bill.
 14 Q. Well, they did pay a portion of their
 15 bill, right? You just don't know exactly how much
 16 they paid, isn't that correct?
 17 MR. MANDEL: Objection. Asked and
 18 answered.
 19 A. Yeah, they paid about \$52,000 of their
 20 bill.
 21 Q. And their bill, at least according to
 22 the documents that I saw, was what, 160, your
 23 final bill?
 24 MR. MANDEL: Objection. Misstates
 25 prior testimony.

1 Corelli
 2 Q. So they paid a third of it?
 3 A. It was over two hundred thousand
 4 dollars. They paid I think less than a quarter of
 5 what was due. I mean, can you go through the
 6 numbers. I don't know --
 7 Q. I guess I was looking at the
 8 projection that you -- the last document we looked
 9 at, which was a projection of what it would cost.
 10 MR. MANDEL: Objection.
 11 A. And the other thing -- okay.
 12 Q. Yes, the projection was 136. So if
 13 they paid you fifty, that would be a little more
 14 than a third of what the total bill would have
 15 been, right?
 16 MR. MANDEL: Objection. Objection.
 17 Completely mischaracterizes the record.
 18 A. It's just all wrong.
 19 Q. What's all wrong?
 20 A. What you just said.
 21 Q. Why?
 22 A. Because that was a preliminary budget
 23 that we were working with that had no -- we didn't
 24 know even at that point what the final cost was
 25 going to be. And when we were terminated, we had

1 Corelli
 2 a budget -- we were up to a certain point that, at
 3 that point, was around a million 275 or something.
 4 And, you know, we hadn't bid it so we didn't know
 5 exactly what it was going to be.
 6 Normally, we would have finished the
 7 construction documents, we would have tendered for
 8 bid, a contract would have been awarded, let's say
 9 it was a million four or whatever it was, and then
 10 we would have done the fee adjustment and then
 11 continued billing on that basis.
 12 And then when the construction was
 13 finished, that million four very easily could have
 14 been a million six and there would have been
 15 another adjustment.
 16 I mean, it's a percentage of
 17 construction cost.
 18 Q. I'd like to you look at Exhibit 26,
 19 please.
 20 (Document placed before the witness.)
 21 Q. Do you need to take a break?
 22 A. No, I'm just trying to -- I'm trying
 23 to avoid taking a break by just doing this, I
 24 apologize. Okay, I'm sorry. What was your
 25 question?

1 Corelli
 2 Q. We're looking at Exhibit 26.
 3 A. Okay.
 4 Q. And the last page of the document, I
 5 know that you asked about this a little bit
 6 earlier, but I want to make sure that I understand
 7 it.
 8 A. Okay.
 9 Q. Do you know what the last page of this
 10 exhibit is, whose work it is?
 11 A. No.
 12 Q. Is this a copy of the work that you
 13 did?
 14 A. No.
 15 Q. Very different?
 16 A. Well, I mean, it's a -- it's like a
 17 base building plan for the original apartment.
 18 Q. Okay, you can put it aside. Not a
 19 copy of your work.
 20 A. No.
 21 Q. I'd like you to turn to Exhibit 27,
 22 please.
 23 MR. ISRAEL: Could you hand him 27?
 24 MR. McKEE: Yes.
 25 (Document placed before the witness.)

1 Corelli
 2 Q. If you look at the middle of the
 3 e-mail chain, the e-mail from Garry Braverman to
 4 Michaela.
 5 A. Yes.
 6 Q. Isn't it the case that this purports
 7 to identify problems that have been identified,
 8 what the owner believed were problems with the
 9 designs and things that they wanted to have
 10 changed, that Medallion wanted to have changed?
 11 MR. MANDEL: Objection.
 12 A. Yeah. I think that the first pass at
 13 the master bedroom, he didn't like. I think
 14 that's really what this comes down to.
 15 Q. And was it changed in response to what
 16 he felt?
 17 A. I believe so.
 18 (Telephone interruption.)
 19 (Recess taken.)
 20 EXAMINATION (Cont'd.)
 21 BY MR. ISRAEL:
 22 Q. I have more questions, but I think
 23 they are better placed to your colleague. I
 24 didn't get a chance to dispose her yet. Most of
 25 these e-mails that I have involve her. So --

1 Corelli
 2 THE WITNESS: Okay, well be gentle,
 3 she's completely intimidated by this
 4 process, and your manner will drive her over
 5 the edge.
 6 MR. ISRAEL: What's my manner? I'm a
 7 nice guy.
 8 THE WITNESS: I'm not saying you're
 9 not.
 10 MR. ISRAEL: No further questions.
 11 MR. McKEE: I have some follow-up.
 12 FURTHER EXAMINATION
 13 BY MR. McKEE:
 14 Q. Just so I'm clear on some things,
 15 Mr. Israel asked you, so it's your allegation that
 16 Garth Hayden's Department of Buildings set, that
 17 August 2009 set, is based at least in part on your
 18 set which we marked here, this December 23rd set,
 19 correct?
 20 A. Yes.
 21 Q. And I think you referred to it as a
 22 simplified version of your drawings, correct?
 23 A. To the extent that he didn't include
 24 all of the work that's in those 19 sheets of
 25 drawings, yes.

1 Corelli
 2 Q. I think you said that the graphics are
 3 a little bit different, correct?
 4 A. The graphics are a little bit
 5 different, like line weights and things that.
 6 Q. And I think you said that Hayden's
 7 work was less elegant than your own.
 8 MR. MANDEL: Objection.
 9 A. I meant more like graphically, like
 10 the line weights and things. The design, what's
 11 described is the same. I just meant like, just
 12 the way it's drawn.
 13 Q. But you used that phrase. I mean, I
 14 didn't misquote you there?
 15 A. No, you didn't misquote me but you may
 16 have misunderstood me, and I apologize for not
 17 being clear about that. What I meant was the
 18 graphic quality of the drawing is not as elegant
 19 as ours. But you know, it's like line weights and
 20 how you render a material.
 21 Like, they look a little bit different
 22 than ours, but if you look at how they are
 23 proportioned, if you look at the hierarchy of the
 24 walls, stuff like that, they are -- they are
 25 pretty consistent.

1 Corelli
 2 Q. And you indicated that -- in keeping
 3 with what you just said, I think you also said
 4 that they are less detailed than yours.
 5 A. By that I meant, he didn't include all
 6 the rest of the material that is included in our
 7 19 sheets of drawings. Otherwise, his filing
 8 would have been substantially larger. And as I
 9 indicated earlier, a lot of the material, a lot of
 10 the design stuff in there is actually not
 11 necessary for a DOB filing.
 12 Q. And keeping in tune with what you just
 13 said and going back earlier in your testimony, it
 14 was your expectation, if I understand it
 15 correctly, that certainly, certain elements of
 16 whatever it was that you were doing as the
 17 interior designer would be incorporated into his
 18 work, correct?
 19 MR. MANDEL: Objection.
 20 You may answer.
 21 A. Well, incorporated into his work, he
 22 would -- to the extent that there was anything in
 23 our design that needed to be included in the DOB
 24 filing set, he would add that to his DOB filing
 25 set and amend his drawings to reflect those design

1 Corelli
 2 changes, yes.
 3 Q. That's fine. And then, is it your
 4 understanding that the Italians' shop drawings
 5 were based upon your set of drawings?
 6 A. I would assume -- I assume so, yes. I
 7 mean, I don't know what else they could base them
 8 on.
 9 Q. Well, let me put it this way:
 10 Did your partner, Ms. Deiss, did she
 11 ever explain to you the conversation that she had
 12 with the Italians? It's a yes or no answer.
 13 A. Yes, she did.
 14 Q. All right. Did she ever tell you that
 15 the Italians told her, "We have your drawings,"
 16 meaning Triarch's drawings, "And that we based our
 17 shop drawings on it," or something to that effect?
 18 A. Something to that effect.
 19 Q. Did she ever say that the Italians
 20 told her that they had Garth Hayden's drawings and
 21 that they based their shop drawings on Garth
 22 Hayden's drawings?
 23 A. No.
 24 Q. If that turned out to be the case,
 25 would you be surprised? Do you understand my

1 Corelli
 2 question?
 3 A. I do. I'm just thinking about it. I
 4 suppose it's conceivable that the -- Vladimir may
 5 have sent Mr. Hayden's drawings to them. I
 6 don't -- I mean, I don't know why they would
 7 really need them. Our drawings probably have a
 8 lot more information, if they had them. But they
 9 may not even have had our drawings. I think the
 10 Italians, I think, didn't start building their --
 11 doing their millwork until after we were
 12 terminated. And I think the -- they were
 13 pushing -- the Italians were really pushing
 14 Michaela, I think, right towards the end of the
 15 job when it was kind of just before we were
 16 terminated, to get as much information from us as
 17 they could.
 18 And a lot of, you know, I think maybe
 19 that was part of the ordinary course of everybody
 20 allegedly being in a rush, I don't know.
 21 Q. In that period of time before you were
 22 terminated, was Ms. Deiss forwarding sections or
 23 portions of the project work which just dealt
 24 with, say, specific elevations of the library or
 25 some other area where there was millwork being

1
 2 *** ERRATA SHEET ***
 3 NAME OF CASE: TRIARCH v. MEDALLION, etc.
 4 DATE OF DEPOSITION: MAY 14, 2012
 5 WITNESS: STEPHEN CORELLI
 6 PAGE LINE FROM TO
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 15
 16
 17
 18
 19
 20 STEPHEN CORELLI
 21 Subscribed and sworn to before me
 22 this ____ day of _____, 20____.
 23
 24 (Notary Public) My Commission Expires:
 25

1 Corelli
 2 done?
 3 A. Was she forwarding that to them?
 4 Q. Yes.
 5 A. At that time, I'm not a hundred -- I
 6 can't say with certainty exactly what she was
 7 sending and when she was sending it. But I'm sure
 8 she could tell you that.
 9 MR. McKEE: I have no further
 10 questions.
 11 MR. ISRAEL: Nothing further.
 12 THE WITNESS: All right, that's great,
 13 thanks.
 14 (Time noted: 4:42 p.m.)
 15
 16
 17 STEPHEN CORELLI
 18
 19 Subscribed and sworn to before me
 20 this ____ day of _____, 20____.
 21
 22
 23
 24
 25

1
 2 CERTIFICATE
 3 STATE OF NEW YORK)
 4 : ss.
 5 COUNTY OF NEW YORK)
 6
 7 I, DAVID LEVY, CSR, a Shorthand
 8 Reporter and Notary Public within and for
 9 the State of New York, do hereby certify:
 10 That STEPHEN CORELLI, the witness
 11 whose deposition is hereinbefore set forth,
 12 was duly sworn by me and that such
 13 deposition is a true record of the testimony
 14 given by the witness.
 15 I further certify that I am not
 16 related to any of the parties to this action
 17 by blood or marriage, and that I am in no
 18 way interested in the outcome of this
 19 matter.
 20 IN WITNESS WHEREOF, I have hereunto
 21 set my hand this 29th day of May 2012.
 22
 23
 24 DAVID LEVY, CSR, RPR
 25

1	----- I N D E X -----		
2	WITNESS	EXAMINATION BY	PAGE
3	STEPHEN CORELLI	MR. McKEE	4
4		MR. ISRAEL	172
5		MR. McKEE	242
6			
7			
8	REQUESTS (RQ)		PAGE
9	RQ	172	
10			
11	MOTIONS (MO)		PAGE
12	MO	174	
13	MO	202	
14			
15	DEFENDANT EXHIBITS		FOR IDENT.
16	Exhibit 35 Three Triarch invoices	13	
17	Exhibit 36 Printout of e-mail document	27	
18	Exhibit 37 E-Mail chain involving Garry Braverman	57	
19			
20	Exhibit 38 E-Mail document, not otherwise identified	65	
21			
22	Exhibit 5B - 5C Two quarter-sized sheets, miniature excerpts from Exhibit 5	67	
23			
24			
25	(Continued on following page.)		

1	----- I N D E X (Cont'd.) -----		
2	DEFENDANT EXHIBITS		FOR IDENT.
3	Exhibit 50 Set of presentation documents with cover sheet headed, "Presentation, November 30, 2008"	138	
4			
5			
6			
7	Exhibit 51 Set of documents with cover sheet headed, "Presentation Files," 1/14/09	139	
8			
9			
10	Exhibit 52 Shop drawings, three sheets	170	
11			
12	Exhibit 53 E-Mail chain produced by Medallion, not Bates stamped	213	
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

1	----- I N D E X (Cont'd.) -----		
2	DEFENDANT EXHIBITS		FOR IDENT.
3	Exhibit 39 E-Mail dated 10/2/09, Corelli to Braverman	76	
4			
5			
6	Exhibit 40 E-Mail document, not otherwise identified	76	
7			
8	Exhibit 41 E-Mail chain	77	
9	Exhibit 42 E-Mail dated 12/10/08, Braverman to Corelli	77	
10			
11	Exhibit 43 E-Mail exchange dated 12/10/08 between Philip at Libracon and Ms. Deiss	94	
12			
13	Exhibit 44 E-Mail exchange between Philip at Libracon and Michaela Deiss, et al	95	
14			
15	Exhibit 45 E-Mail chain starting 1/5/09	98	
16			
17	Exhibit 46 E-Mail dated 1/12/09 re invoice, not otherwise described	115	
18			
19	Exhibit 47 Construction cost estimate prepared by M. Deiss	122	
20			
21	Exhibit 49 Collection of documents with cover sheet headed, "Presentation October 26, 2008"	136	
22			
23			
24	(Continued on following page.)		
25			

A				
Aaron 92:18 113:20 189:16 234:5,9	244:10 add 202:15,25 204:11 205:22 216:6 244:24	55:22 57:5 72:21 73:15,23 83:19 84:16 88:13 114:8 116:8 131:21	32:14 220:23 always 15:7 31:7 89:17 98:3 148:20 163:23	224:3 230:9 235:21 236:22 244:20 245:12
abandoning 36:14	added 58:25 74:14 159:14,21 161:6 161:22 162:10 232:15	153:12,17 189:25 agreement 34:20 36:10 44:11,12,23 44:24 46:7,10 47:12,21 48:11	amateurish 35:18 ambience 187:12 ambitious 62:10 63:15,24 75:23 210:21 216:8	answered 173:23 175:10 179:3,14 181:18 183:24 184:16 193:22 194:12 197:20 198:5 202:11,19 202:24 203:14,17 211:6 212:4,11 228:11 236:21 237:18
ability 4:16	addition 224:13 additional 31:14,17 85:11 104:18,20 104:21 117:14 221:23,24 224:14	62:22,24 145:7,8 145:10 169:5 173:5,6 180:3 199:17	amend 105:13 244:25 amended 72:13 150:13 166:23 167:19 225:10,24 amending 145:15 amendment 105:14 105:17 160:16 166:12 232:5	answering 228:14 answers 4:17 185:21 212:12 anticipated 17:25 21:14 31:6 79:8 79:18
able 18:12,19 36:20 85:16 132:22 145:14 150:3 172:25 201:22 203:15 219:8 220:13 222:24 236:3	adds 73:20 adept 123:18 adjacent 197:12 adjusted 133:2 adjustment 239:10 239:15 adjustments 105:16 administration 51:18,24 117:17 advised 34:9 62:22 advising 91:5 affiliated 27:23 affiliates 13:2 after 35:12 69:21 75:23 81:20 100:4 109:10 119:3,4 129:25 131:23 143:10 163:15 164:5 176:17 177:3 191:9 195:24 202:5 235:3,5 246:11 afternoon 78:19 172:11 again 22:6 29:12,25 45:14 49:7 51:4 51:24 64:11 72:7 73:13 88:21 95:13 96:13 103:5 150:9 150:14 161:12 176:24 185:2 192:25 195:22 210:16 212:13,13 against 1:8 4:10 157:8 227:18,18 agency 15:18 aggressively 101:10 ago 25:12 94:24 129:4,20 132:6 165:17 agree 44:4,9,21 45:2 48:23 54:4,5	AKH 1:8 al 95:10 251:14 alabaster 131:11 ALBERT 3:9 allegation 154:25 227:23 242:15 allege 160:17 162:23 165:2 alleged 154:14,18 165:2 166:18 167:16 allegedly 246:20 allow 5:16 31:2 86:20 allowed 176:8 all-around 28:3 almost 25:11 143:3 162:2 along 74:14 117:13 117:19 136:8 140:9 208:19 216:10,15 218:20 219:7 already 20:25 35:3 39:20 42:6 47:23 53:23 62:23 64:14 97:21 105:11 106:2 117:2 150:9 157:21 160:19 209:25 212:11 235:14 alteration 34:20 39:11 62:22,23 64:8,17 145:7,8 145:10 alternative 97:18 236:23 although 20:23	amount 20:18 21:18 22:24 25:8 82:14 86:4 155:14 174:13,14 218:23 analysis 232:4 analyze 151:14 and/or 92:6 Anne 55:16,20 56:6 56:11,20 another 24:25 40:6 41:20 47:22 53:18 83:5 92:21 100:10 106:10 120:24 139:10 177:6 189:15,18 214:24 221:18 239:15 answer 10:16,25 31:4,11 50:11,24 54:9 87:22 121:16 125:4 134:8 139:8 142:24 154:7 155:8 156:6,22 157:15 165:23 167:6,13,25 168:12 173:24 175:11,24 176:21 177:24 178:9,10 178:11,12,16 179:18,19 181:21 182:4,12 184:17 184:25 188:11 190:22 192:3 193:23 194:12 196:15 198:21,22 198:23 201:4,5 202:13,15,17 203:3,23,25 204:6 205:23 207:6 211:7 212:16	anybody 8:14 35:19 62:17 76:9 81:25 95:24 107:19 123:17 149:4 164:16 171:4,8 anybody's 160:12 anyone 164:24 181:24 182:18 191:20 anything 6:3,10 19:25 21:2 31:19 53:20 64:22 86:24 89:9 91:19 103:7 108:3 112:9 128:14 131:4 136:4 142:21 163:18 169:21 172:20 183:16 186:2,5 197:25 198:6 202:14 203:11,15 204:11 205:2 211:12 234:8 244:22 anyway 215:6,7 anywhere 46:9 53:16 apartment 17:12,19 17:23 20:11 22:20 26:3,6,8,11,14,17 26:24 28:13,14,22 30:20 35:5,7,15 36:20 37:21,24 38:3,5,7,9,25 53:17,18 58:9,10 66:12 68:19 80:14 98:25 99:17

128:17 137:12 163:5 166:5 169:24 171:2 195:10 199:10,18 200:2 207:23 208:3 227:5 228:20 229:7,10 230:11 237:7 240:17 apologies 31:10 170:11 apologize 172:16 193:7 215:5,9 239:24 243:16 apparent 103:24,25 apparently 51:8 97:21 130:21 163:14 219:9 229:10 appear 29:25 58:8 99:24 112:6 133:25 141:6 156:8,10,16 159:17,19 229:13 229:18 appeared 35:9 79:18 81:8 99:23 appears 47:7 56:18 71:25 72:5 82:13 93:3 121:7 163:20 214:2,22 apples 160:8,8 applicable 38:22 142:11 143:13 144:18 application 105:18 219:23 220:3,5,6 221:4,12,14 228:16 applications 154:19 approach 35:15 54:11 approaching 81:8 appropriate 18:14 50:17 144:23 approval 20:25 39:11 49:18 50:6 50:22 64:7 75:22 163:6 166:7 191:11 197:3 209:19 210:18 approvals 39:20 40:21 47:16 149:25 150:4 approve 59:21 approved 27:4 60:6 61:25 64:3,14,18 66:10 69:15 70:9	70:13 73:10 105:17 145:16,19 150:10 209:24 210:24 approximately 193:3 215:13 arbitrary 134:9 Arc 84:4 architect 1:11 3:6 4:11 7:18,23 8:3 11:6,7,13,15 38:14,18 39:8,16 39:19 40:3,5,19 40:20 42:6,6 44:8 44:13,20,25 45:5 45:21,22,23 46:5 46:6,11,11 47:22 47:23 49:17 50:3 50:5,8,13,15,20 51:25 66:4 75:15 75:16 95:6 142:8 144:21 149:19,22 155:12,17,23 164:17 166:3,9,10 168:18 169:16 188:23 190:9 200:18,25,25 203:9 205:4,7,12 205:24 architects 8:17,20 8:24 35:22 36:11 204:15 architectural 1:5 6:25 7:12,16,17 7:19,20 8:17,21 9:8 10:3,22 11:11 11:14,21 14:8,14 45:6,12,16,17,17 47:18 78:4 83:25 84:5 85:4 115:16 153:8,17 154:19 155:18 165:10 166:23 167:18 180:3 architecture 12:4 14:6,8,11 architect's 52:11,17 119:6 202:21 204:3 area 63:25 72:4 89:8 158:5 161:14 246:25 areas 71:2 137:12 170:25 argue 205:20 arguing 203:5 argumentative 173:21 179:13	183:23 184:16 188:8 arise 54:25 around 24:15 32:16 70:14 103:15 109:21 127:16 129:6 146:24 159:8 193:8 195:22 208:8 210:14 239:3 arranged 48:9 art 18:16 article 33:2 48:13 49:8,15 50:2 51:3 52:3,4 53:22 168:25 articulate 18:12 articulation 163:11 arts 187:20 artwork 22:18,18 aside 55:10 92:14 113:15 136:9 191:2 195:23 240:18 asked 6:2 37:2 75:24 94:23 99:3 100:24 102:4 168:21 173:22 175:9 179:3,14 181:17 183:24 184:16 186:9 193:21 194:11 197:19 198:4,12 198:13 199:3 202:10,19,23 203:13,17 211:5 212:3 228:11 236:21 237:17 240:5 242:15 asking 63:11,11 72:25 100:19 112:25 156:8 172:13,21 173:18 175:4 178:23,25 179:11 181:2 185:2 192:18,25 197:21 198:14 204:4 208:14 212:12 220:14 226:20 230:19,25 231:3 235:13 asks 96:5 aspect 13:9 114:16 191:12,13 aspects 115:12 145:10 aspirations 35:16 assemble 219:17	assembled 219:15 assist 49:17 50:5 assistant 28:4 associated 30:16 145:2 Association 14:9 assortment 37:5,6 assume 57:2,3 95:2 109:22 138:13 145:17 165:14 167:7 196:10 245:6,6 assumed 28:21 103:24 assuming 215:11 assumption 216:3 as-built 199:19 attached 55:21 88:17,20 97:7 attempt 172:21 attempting 39:7 attend 110:20 attendance 98:3,6 107:13 attended 14:6,10 110:19 attention 56:7 94:15 191:6 193:7 212:20 213:25 attorney 2:12 4:8 5:14 125:15,25 131:24 152:7 154:8,11 164:6,11 180:25 214:16 219:6 attorneys 2:5 3:5 5:16 attorney-at-law 125:20 attorney-client 19:24 178:14 August 16:14 27:20 29:11 35:4 42:3 150:14 242:17 author 221:10 authorities 49:19 50:7 authority 142:11 authorization 228:16 AutoCAD 33:23 34:10,13,16,19,24 42:25 137:20 199:12 available 115:10 Avenue 67:22 171:3 206:16 207:17 avoid 239:23	awarded 132:22 239:8 awarding 49:20 aware 8:15 15:20 46:4 92:4,5,10 104:19 148:18,19 148:20 164:23 165:18 169:10 180:21,24 181:2,3 181:7,11,15 190:7 190:14,17 191:24 231:3,4,12,13,16 231:17 away 16:21 98:24 awkward 89:17 101:2,7 102:15 232:16 A-1 150:17 158:8 158:11,16 A-2 73:24 147:21 148:5 158:22 160:3 A-3 74:23 75:4 A-4 162:13,14,16,25 168:8 A-5 150:18 162:14 162:16 163:2 168:8 a.m 1:15 <hr/> B back 16:5 22:6 24:11 33:20 43:18 49:15 57:3 58:15 74:25 85:22 90:20 98:17 100:21 101:6 103:19 107:9 109:5 110:3 110:22 116:4 118:17 141:11 146:8 159:25 169:20 186:8 210:6 216:25 218:6 244:13 background 14:5 101:6 back-and-forth 35:13 201:8 bad 103:8 163:18 169:21 ball 36:21 bar 73:19 150:15 Barack 103:20 bare-bones 197:7 bargain 177:20 base 12:3,7 43:13 134:15 139:2 232:2,3 240:17
---	---	---	---	--

245:7 based 22:3 35:16 49:11 82:4 119:8 123:4 133:2,25 134:2 158:12 160:16 162:12 165:4,8 171:17 195:8 197:23,23 224:11 230:2 232:20 236:11,16 242:17 245:5,16 245:21 basic 61:25 147:15 211:22 basically 17:12 18:23 66:8 99:4 143:11 151:14 161:2 162:4 201:10 204:18 230:16 232:8,11 basis 134:5 161:4 166:3 174:8 182:5 224:16,19 225:2 225:25 227:20,22 229:2,22,23 239:11 Bates 213:6,18 252:12 bath 70:25 71:24 74:20 159:17 bathroom 74:18 112:8 113:3,4,5 113:11 114:6 139:23,23 140:4 161:19 163:10 184:2,5 bay 201:11 bear 108:8 118:15 141:6 154:16 bearing 148:4 beautiful 107:23 127:18 141:14 142:18 233:9 became 74:2 become 15:20 139:2 149:18 becoming 149:22 bed 109:21 bedroom 70:25 71:15,23 72:4 73:25 74:11,14 86:25 87:6 89:14 89:25 97:15 104:19,22 109:20 111:25 112:5 159:16,19 161:12 161:13 163:10 197:12 241:13	before 1:20 4:13 5:6 5:17 24:18,18 42:18,21,24 46:19 51:11 58:14 63:16 65:15,17 66:24 67:23 68:3 70:4 70:13 91:2,3 97:5 128:4,6,7 140:4 146:2 147:10 157:25 159:24 160:8 162:11,20 172:24 173:16 179:9 188:10 191:12 195:5,24 195:25 199:8 200:9 211:8,25 233:23 235:7,14 239:20 240:25 246:15,21 247:19 248:21 beg 194:7 began 51:11 75:18 begin 14:18 29:11 86:20 120:22 200:16 beginning 158:8 begins 88:4 96:12 begun 105:4,6 behalf 23:23 behavior 230:15 behind 227:9 being 4:25 10:21 24:3 33:3 38:6 39:16 43:22 44:12 45:10 76:3 78:9 94:25 111:2 121:14 125:21 134:5 146:11 165:19 184:21 185:16 201:22 205:24 219:15 243:17 246:20,25 belief 126:14,20 166:19 believe 19:15 20:23 24:6 26:5,21 31:16 32:12 42:8 42:23 43:3 46:13 56:4 62:7 69:13 70:5,13 72:18 79:4,7,13,23 81:22 83:17 85:15 87:7 91:3 99:9 116:23 118:23 119:15 130:25 140:13 164:10 170:23 171:18 173:7 185:22	193:5 194:13 207:15 219:5,13 219:18 220:20 227:3 241:17 believed 22:23 41:6 241:8 belligerent 185:12 185:13 below 56:18,19 91:9 112:7 146:22 beneath 48:19 189:16,18 benefit 14:4 best 4:16 18:7 26:5 37:18 184:8 better 43:17 77:22 87:16 141:23 150:7 157:25 241:23 between 23:3 25:7 25:14 38:14 43:22 44:17,24 46:24 71:15 73:25 81:6 81:16 94:4,11 95:9,14 97:10 108:17 121:13 144:4 148:9 153:21 168:7 173:7 251:11,13 beyond 17:14 BHANDARI 2:4 bid 60:20 61:5,9 218:22 239:4,8 bidding 54:24 60:9 60:11 117:16 204:21 bigger 63:16 64:9 bill 85:17 117:8 119:11 133:18 134:23 164:12 173:18,19 175:17 176:16 177:3 192:8 214:19 218:17 237:13,15 237:20,21,23 238:14 billed 20:19 120:17 121:5,14 133:6 135:25 218:18 billing 51:4 119:7 120:2,9,24 121:20 121:25 133:14 239:11 bills 11:9 120:4 bit 33:19 82:23 103:18 105:15 112:13 131:15 135:24 136:8	151:20 187:18,21 201:18 206:11 212:21 217:15,21 232:9 240:5 243:3 243:4,21 blood 249:17 blow 63:23 64:16 197:10 board 39:11 50:18 50:22 64:3,7,15 64:18,23 144:25 145:16 147:17,18 147:19 152:14 163:6 197:4 209:19,22,25 210:16 211:4 body 29:10 45:5 book 98:24 99:19 100:4 107:10 111:8 127:17 129:6 140:10,13 140:15 border 208:8 borrow 197:11 both 65:24 67:19 145:16 bottom 44:6 45:4 72:22 85:20 189:24 Boucher 92:18 113:21 189:16 bought 17:18,20 130:17,25 234:20 brands 19:6 Braverman 15:22 27:18,22 28:25 29:11,15,22,24 30:16 34:18,23 38:3 43:9 46:16 55:15,20 57:10,14 59:5,6 65:24 76:22 77:6,15 78:18 79:17 81:7 81:10,13,19 82:8 82:12 83:8 85:22 86:23 95:25 97:10 104:17 110:25 126:8,22 145:6 149:18 189:17,19 189:25 193:14 199:11 214:3,14 241:3 250:18 251:4,9 Braverman's 29:20 58:22 62:25 79:9 87:8 88:15 break 69:22,22,23 76:19 106:11	170:7,9 239:21,23 brief 23:9 briefly 5:23 11:25 bring 6:2 broad 12:8 Broadway 1:20 2:6 3:7 broken 51:4 brought 4:10 15:16 170:20 204:17 226:20 227:17 budget 17:24 18:8 80:8,10,17 81:13 81:25 82:2 123:7 132:4,10 134:2 175:4 215:7,11 238:22 239:2 build 53:15 169:24 198:7 222:10,17 227:5 228:20 building 20:21 39:17 43:5 45:19 45:24 53:15,19 54:25 92:24 93:5 127:12 196:2 230:10,11 240:17 246:10 buildings 38:20 39:9 139:6 145:17 152:10,13 166:25 196:21 197:5 225:17 226:13,16 226:23 227:25 228:7 229:6,25 231:22 242:16 built 51:9 229:12 bullet 33:19 bunch 68:24 201:7 205:8,10 business 6:20 7:4,11 9:22 10:8,10 14:18 18:25 39:18 101:11 103:14 businesses 19:2 businesslike 103:23 businessman 33:18 54:22 businessmen 18:21 butler 27:25 buying 131:14 byrne 1:19 3:4 4:8 B105-2007 23:18
--	---	--	---	---

C

C 2:2 3:2 4:2 107:4
249:2,2
cabinetmaker 59:8
60:16,18,19 61:7

95:3 219:9 222:16 229:13 cabinetmakers 90:9 90:12 193:25 cabinetry 39:2 62:18 92:25 159:12,13 194:22 cabinets 59:17 cales 143:7 call 23:9 47:15 67:7 102:9 106:9 200:5 called 7:6 10:2,22 10:23 71:21 75:15 161:15,18 176:7 189:19,20 190:5 190:15 calls 71:15 173:13 173:22 175:21,22 177:9 179:14 188:8 224:21 235:11 236:20 came 18:4 26:6 28:15 51:11 66:15 79:10 136:20 152:12 175:17 208:9 cap 80:22 caption 153:16 captures 89:20 care 143:11 careful 232:4 Carol 164:15 carpentry 93:6,7,9 93:13 carried 49:7 carries 13:13 case 60:16 112:6 191:21 200:14 207:21 211:2 215:4 216:3 241:6 245:24 248:3 cases 59:9 caught 169:17 cause 119:25 135:25 154:10 caution 80:5 CDs 60:10 117:13 135:25 136:2,3 139:3 216:23 217:10 cease 169:6 ceiling 143:18 208:8 centimeters 209:12 Ceramic 90:3 94:20 94:24 95:5,19,22 certain 20:17 26:4 26:15 39:20 137:18 170:25	188:2,2 197:13 217:10 236:9 239:2 244:15 certainly 71:10 80:23 134:12 244:15 certainty 24:21 30:6 66:22 67:25 247:6 certified 126:5 certify 249:9,15 chagrined 82:24 chain 55:13 57:9,13 77:3 88:3 98:10 98:16 189:22 213:5 215:2 241:3 250:18 251:8,15 252:12 challenging 101:7 chance 241:24 change 89:15 132:24 151:20 197:12 212:14 215:14,21 217:12 changed 47:3 105:15 241:10,10 241:15 changes 47:3 92:7 92:11 114:4,10 161:13 245:2 changing 183:10 198:18 character 26:15 187:12 characterized 36:16 charge 133:23 charged 38:19 charming 18:6 chemistry 127:8 Cheryl 208:19,22 child 30:9 choices 106:9 chunk 54:13 circles 18:18 circumstances 183:25 circumstantially 231:17 City 166:24 claim 227:20 228:2 claiming 81:7 225:14 226:24 clarification 19:18 clarified 79:14 clarify 214:18 215:11 clarity 194:18 clean 137:23	clear 21:3 31:8 36:22 48:6 75:18 162:21 192:6 213:16 227:21 230:25 232:19 242:14 243:17 clearly 161:11 client 20:4 53:4 65:21,23 101:25 102:22 103:6 104:21 105:12 127:10 137:22 146:6 163:16 165:13 167:11,15 168:17 169:10 183:4 185:20 200:16 201:9 208:3 209:8 215:24 216:8,25 227:18 228:18 230:16 clients 54:13 98:2,6 127:9 138:11 clients's 183:9 close 80:2 117:12 closed 28:19 closely 54:16 224:11 closet 72:3 148:12 159:20 161:13 closets 74:13,17 97:17,22 159:13 159:15,15,18 161:16,19 clouded 89:11 clouding 89:18 code 143:13 codes 73:19 150:15 coffee 69:22 124:24 Cohen 156:12 colleague 180:9 187:24 241:23 colleague's 172:15 collect 134:20 135:2 collection 18:15 66:15 67:8 108:15 109:3 111:4 136:13,24 147:6 251:21 color 5:24 187:14 colored 37:11 colors 188:2 come 53:2 54:13 62:19 67:8 80:2 82:9 97:18 109:19 111:24 134:4 186:11 187:5 216:25	comes 136:24 177:3 241:14 comfortable 19:8 coming 6:5,11 85:22 160:6 184:20 commenced 195:6 200:24 comment 154:9 comments 32:19 145:7 Commercial 44:25 Commission 248:24 common 15:12 46:3 company 39:6 171:5 189:20 190:5,14 compare 152:17 157:9 comparing 147:21 comparison 146:12 comparisons 157:19 compatible 35:16 compendium 212:24 compensation 49:9 competitive 54:24 complaint 154:14 165:3 166:17 224:25 225:4,10 227:11 228:25 complete 31:2 79:6 87:4 113:7 114:21 117:11 118:8,9 120:14 122:10,15 141:21 175:23 218:22 219:2 completed 84:10,19 84:25 87:5 120:16 134:24 135:7,10 135:15 174:14 216:11 218:11,25 219:4,24 221:18 221:20,22 completely 134:9 184:19,22 214:22 238:17 242:3 completion 49:12 60:4 119:9 135:22 169:4 complex 19:7 compliance 143:13 complicated 102:16 195:14 compliment 107:25 component 39:22 comport 209:24	comprise 226:24 compromise 150:2 conceivable 246:4 concentrate 63:3 concentrating 194:19 concern 79:18 82:13 104:13 194:5,9 209:19 234:16 concerned 19:23 78:3 145:12 210:20 concerns 51:3 64:15 145:9 conclude 189:23 197:15 conclusion 167:8 173:14,22 175:22 177:10 179:15 224:22 232:20 235:12 236:21 condensed 193:4 conditions 43:2 71:14 158:19 199:20 condo 20:25 50:22 64:3,7,15 144:25 145:16 147:18,19 152:13 209:19,22 210:16 211:4 condominium 39:11 50:18 66:11 197:4 conference 140:18 confers 100:18 200:4 configuration 88:22 159:11 194:20 configured 73:25 confines 211:24 212:2 confirm 129:25 conforms 38:22 confronted 130:5 confused 104:18 confusing 11:19 confusion 225:11 conjunction 11:14 75:25 connection 7:17 14:2 47:19 170:24 226:11 consider 21:24 112:22,23,23 135:21 137:6 157:3 184:5 207:2 208:4,23 considerations
---	---	--	---	---

22:15 considered 123:17 184:7 208:20 consist 30:20 consistent 243:25 constitutes 155:10 constraints 150:11 construct 80:3 constructing 143:17 construction 10:14 10:14 12:4,9,12 13:9,12 19:7 32:14 33:3 49:2 49:20 50:14 51:3 51:7,11,13,17,20 53:23 54:3,7 61:5 61:6,18 62:3 65:12 79:21 80:16 81:14 84:23 85:2 86:19 105:8 117:15,16 118:2,5 118:8 122:7,9,15 122:19 123:2 132:4,18,21,23,24 134:2,14 135:11 135:16 136:5 138:25 139:4 142:2 188:19 191:12 195:6,9,11 201:12,16,21 204:20 216:5 217:14 219:8 222:2 239:7,12,17 251:19 consult 123:12 consultant 201:16 consultants 182:23 contact 90:3 contacted 164:11 contemplated 38:21 46:7 63:24 contemplating 20:13 contention 76:8 continue 198:19 222:24 236:3 237:2 continued 105:19 239:11 250:25 251:24 continues 185:4 191:9 contract 24:4,14,19 25:15,25 32:6,9 32:12,19,20,24 36:9 38:2 41:13 41:23 42:4,18,21 42:24 43:19,21	46:14,15,23 51:17 51:23 52:4 53:22 54:2 55:21,25 56:2,8,15,21 71:11 80:18 85:6 85:17 118:18 132:21 133:3 135:19 153:20 160:5 174:9,11 177:20 178:22 179:4,5,21 239:8 contractor 12:16 61:7 222:16 contracts 49:20 52:13 105:9 contractual 130:3 contributing 183:16 contribution 181:25 183:7 196:22,25 contributions 182:19,25 control 167:15 Cont'd 3:2 77:8 107:7 170:13 200:10 218:9 233:16 241:20 251:2 252:2 convenient 213:22 conversation 24:25 47:9 81:24 97:16 101:17 140:3 171:19 233:6 237:4 245:11 conversations 27:3 101:13 148:23 conveyed 80:19 coordinating 28:6 30:2 copied 151:16 225:15 231:20 copies 231:10 copy 34:20,24 46:22 56:8 70:14 73:10 73:16 108:11 125:18 212:5 213:18 220:3,18 220:21 221:2 225:23 229:7 231:5 240:12,19 copying 157:11 162:24,25 226:2,8 226:10 227:24 229:4 231:14,19 232:23 copyright 154:20 154:23 155:5,10 196:10 218:25 219:23 220:6	221:4 226:25 227:20 228:22 copyrighted 180:16 180:22 181:3,8 219:6 copyrights 180:11 cordial 124:20 125:2 corporate 28:12 corporation 6:19 7:10 10:7 11:4 correction 190:10 corrections 92:7 190:15 correctly 14:24 40:8 92:19 145:25 178:19,24,25 179:11,12 180:6 190:12 191:16 225:20 244:15 correspond 129:10 correspondence 80:20 148:17 corresponding 125:10 145:6 corridor 89:8 159:4 209:12 cost 17:25 32:14 33:3 53:23 54:3,6 54:21 55:5 79:19 79:21 81:9,14 122:20 123:2 132:14,18,23 134:11,13 174:22 174:22 175:2,7,16 238:9,24 239:17 251:19 costing 201:24 costs 81:19 134:15 175:7 216:5 counsel 66:16 100:18 200:4 220:17 221:2 counseling 128:8 counsel's 108:21 COUNTY 249:5 couple 61:12 75:4 77:16 143:6 199:22 232:11 course 5:9 67:3 143:20 164:21 228:2 246:19 court 1:2 5:6 cousin 129:12 cover 136:14,24 138:15,18 139:11 139:14 251:21 252:4,7	covered 47:20 168:13 203:18 214:15 covers 53:14 231:15 co-op 147:16 crazy 150:3 create 17:17 26:10 39:7 creative 115:8 Cristina 9:4 criteria 21:6 critic 112:25 CSR 1:21 249:7,24 current 116:25 194:20 currently 105:17 cut 185:3 Cyrillic 88:24 D D 250:2 251:2 252:2 damage 229:3 date 13:19,21 18:3 23:17 25:15 27:8 42:4,5 57:4,6,11 57:13 65:4,6 67:13,16,17 72:22 73:6,11 76:23 77:2,4,7,11 78:21 79:6 81:2 83:6,21 84:12 94:6 95:11 95:13 98:12,14 111:6 114:5,5 115:20,23 120:7 122:21 125:19 136:16,18 138:20 139:16 141:6 170:16,19 213:7 248:3 dated 55:14,16 58:23 76:21 77:5 94:4 96:4 110:23 111:23 115:21 116:13 120:19 122:13 125:20 141:19 193:15 251:4,9,11,17 dates 16:12 108:16 david 1:21 249:7,24 day 59:20 60:5,5 169:18 180:10 187:24 247:20 248:22 249:21 days 77:16 179:22 179:23 DDs 117:12 de 218:23 deal 21:15 102:2	204:20 210:15 dealing 216:24 dealings 125:24 126:3 dealt 246:23 December 55:14 56:8,16,19,20,22 56:25 81:9 83:6 83:21 86:5 88:3,4 88:8 90:21 92:17 94:10 96:4 97:15 120:19 122:8 128:9 141:6,19 193:5 214:15 233:24 242:18 decide 147:3 decided 176:16 210:14 235:25 decision 208:25 decisionmaker 85:23 decisionmaking 127:3 decorative 131:8 187:20 default 180:4 defective 215:2 defend 185:20 defendant 3:5 13:17 27:6 57:9 65:2 67:10 76:21,24 77:3,5 94:3 95:8 98:10 115:21 122:19 136:13 138:17 139:13 166:19 170:17 213:5 250:15 251:3 252:3 defendants 1:12,18 2:12 5:15 12:2,18 13:21 28:9 65:6 69:20 94:8 99:19 Defendant's 77:11 deficient 228:13 define 197:2 definitely 145:12 192:15 definition 52:23 degree 20:13 33:11 Deiss 9:19,20 13:8 15:4,6 33:9 56:7 77:25 88:5,6 91:5 92:2,18 93:3 94:5 94:11,14 95:10,16 95:25 97:10 98:2 108:15 122:20 123:21 124:20 125:11,22 149:2
---	--	--	--	---

152:19 189:14 245:10 246:22 251:12,14,19 Dejan 95:18,22 delayed 210:21 delivery 18:4 demo 71:14 demolition 71:15 105:4 158:20 165:11 demonstrate 157:24 demonstrates 143:12 denied 130:9 department 20:22 38:20 39:10,17 45:25 139:5 145:17 152:10,13 166:24 196:2,21 197:4 225:16 226:12,16,23 227:25 228:6 229:6,25 231:21 242:16 depends 12:14 144:5 183:25 215:21 216:7 depicted 112:21 depiction 68:14 139:23 depictions 86:14 deposed 187:24 deposition 1:17 4:12,15 5:20 30:25 114:17 207:4 214:16 228:3 248:3 249:11,13 describe 37:18 230:7 described 18:15 21:12 31:18 63:16 66:9 80:13 85:8 115:22 169:11 232:19 243:11 251:18 describes 44:20 215:17 describing 47:18 99:20 description 18:9 designated 83:18 131:20 designed 62:19 130:2 159:6,7,9 171:2 222:17,22 229:20 231:9 232:7,17	designer 8:12 38:14 38:23 41:19 92:6 92:11 166:10 244:17 designers 8:8 35:4 35:23 36:10,23 38:11 204:16 designing 45:15 199:19 208:2 designs 53:14 188:24 191:11 218:12 219:17 234:25 236:9,17 241:9 desire 17:16 20:10 193:18 desires 80:7 desk 15:11 detail 21:15,18 25:21 62:18 98:8 102:3 143:9 151:7 153:5 222:9 223:17,23 224:2,7 detailed 99:15 138:24 217:4,6 223:14 244:4 detailing 162:7 details 38:24 39:3 137:24 140:6 162:17 163:13 222:14 determine 115:3 224:25 develop 20:14 21:11 39:6 61:15 66:11 66:12 194:21 developed 66:4 92:12 200:18 203:8 developing 70:19 105:12 163:11 184:6 development 13:2 49:2 84:15,20 100:11 101:14 117:14,23 118:2,4 118:7 120:13 122:2,4,14 135:3 135:8 137:14,16 188:19 216:12,14 216:23 217:13 developments 91:6 devoted 47:13 diagram 143:3 diagrammatic 37:11 158:2 160:23 162:2,5 diagrammatically	144:2 DiChiara 164:14 difference 11:15 45:20 121:12 162:3 223:12 different 10:21 13:4 14:14 35:8,9,11 35:14,22 37:12 43:15 46:4 48:20 54:17 61:11 88:22 103:7 109:21 127:10 137:11 149:9 159:3 161:14,21 172:18 201:7 204:15 205:9 212:21 223:2,18,20,21,22 224:7 232:7,9 240:15 243:3,5,21 differently 142:18 difficult 61:23 126:24 229:11 difficulty 21:10 64:6 86:17 192:21 199:6 digitally 56:8 dimensions 137:20 138:6 dining 70:25 131:9 148:10 159:6,7 160:6,10,21 163:9 dinner 25:5 29:3,5 29:18 32:3,5 127:16 129:6,19 dinners 29:19 diplomatic 62:5 direct 69:19 116:4 118:17 148:16 150:12 162:24 165:8 167:10 191:6 193:6 212:19 213:25 231:13 232:22 directed 80:15 186:24 230:17 directing 63:9,10 146:14 direction 114:11 169:24 directive 72:15 73:3 106:4 166:12 directly 68:8 129:13 129:16 disappointed 36:18 127:22 192:9 disciplinary 15:17 disclose 154:4 discount 33:10,10	discuss 5:16 16:16 16:20 19:13,25 25:16 30:18 175:6 discussed 22:13 23:5,6 24:16 25:20 32:17 206:10 discussing 25:2 89:6 discussion 22:16 58:4 106:14 128:23 174:25 188:22 189:8 214:6 225:7 discussions 81:13 81:18 display 59:9 disposal 231:18 dispose 236:18 241:24 disposed 235:10,18 dissatisfied 97:21 distinct 7:15 distinction 38:13,17 46:24 DISTRICT 1:2,3 diverse 108:16 divide 153:3 divorce 100:24 102:16 128:5 DOB 50:17,22 71:6 72:8 73:17,20 105:13 142:22 143:3,5,10,19,22 143:24 144:3,22 145:19 157:7 160:16 163:6 166:6 167:22 224:15 225:23 226:2 228:16 229:19 232:5 244:11,23,24 DOB's 144:24 document 12:18 23:14,19,20 27:7 27:11 32:11 46:12 47:7 49:3 55:12 65:3,8 66:17 76:25 78:7,13 81:3 83:4 88:2 90:16 91:23 92:16 94:9 97:2 98:15 99:21 104:14 110:9 113:17 115:24 124:5,8,10 129:2 130:13 131:18,20 136:20 136:21 137:23 139:17 141:4	160:25 167:10 182:14 188:18 189:3 200:9,13 213:9,12,16,24 226:20 233:23 238:8 239:20 240:4,25 250:17 250:20 251:6 documents 5:20 6:23 13:24 36:6 38:20 49:18 50:6 50:14,14,20 52:5 52:10 53:20 61:5 61:18,21 66:16 67:9,20 83:13 84:23 85:2 86:19 91:24 108:19 117:15 118:2,5,8 122:7,9,15,22 135:11,16 136:5 136:14,19,24 138:18 139:2,4,14 139:20 141:15 154:12 171:11 179:10 188:19 195:12,25 196:20 199:18 204:22 217:14 219:8 237:22 239:7 251:21 252:4,7 Doe 93:6 doing 19:10 26:23 38:23 39:16 48:5 53:18 60:14 61:10 61:14,24 62:2 70:23 75:23 93:12 93:18 101:24 105:2 106:8 113:22 123:18 153:7 157:18 186:2 195:6,8,18 199:21 200:3 201:24 202:2 210:25 216:22,23 219:21 227:13,17 232:22 234:18 235:8 236:11,16 239:23 244:16 246:11 dollars 54:15 80:3 174:8,13 175:8 238:4 domestic 29:9 done 35:3 43:11 52:21 60:7,10 62:23 71:4 91:6 99:14 103:22 120:7 121:22
--	--	---	--	---

122:4 123:24 133:7,8 134:14 135:24 136:2,3,11 160:15 164:24 174:7 194:22 196:13,16 202:6 204:10 205:9 218:16 219:3 221:25 230:2,21 235:16 239:10 247:2 door 75:10 76:10 109:12 138:8 143:14 159:15 187:10 doors 74:5 143:21 144:4,7,8,13,23 148:8,9 159:5 160:5,18 161:6,7 161:8 162:8 double 160:5 doubt 222:20 down 33:7 52:3,20 55:7 71:6 84:13 100:6 102:13 103:12 104:8 119:21 120:12,14 127:25 146:22 185:5 241:14 dozen 101:15 draft 196:5 drafted 156:15 228:25 drafts 47:6 draw 38:13 drawing 42:25 43:10 68:12 69:8 69:10,13,16,17 88:17,21,25 89:3 89:12 97:8 137:19 138:2 148:5 161:3 161:4 163:22 183:13,20 229:7 232:20 243:18 drawn 157:8 243:12 drew 210:10 drive 242:4 duck 233:2,3 due 78:2 118:23 119:5 180:3 238:5 duly 4:2 249:12 duplicative 231:5 during 5:9 17:11 18:9 51:16 67:3 69:11 91:17 148:15 150:25 151:3 228:2 dynamic 101:2	103:7 D-19 55:11 D-2 43:18 46:19 D-27 96:25 D-44 95:12 D-45 98:14 E E 2:2,2 3:2,2 4:2,2,2 107:2,2,4,4,4 249:2,2 250:2 251:2 252:2 each 49:12 118:22 128:13 156:17 158:8 191:11 earlier 78:25 87:13 92:23 111:14 113:20 114:17 117:21 132:15,16 133:4 134:23 140:10 146:16 162:22 168:14,22 185:10 188:21 191:5 192:25 199:6,25 206:11 212:22,25 214:15 214:25 240:6 244:9,13 earliest 98:19 early 26:21 27:2 145:4 185:4 195:20 easily 239:13 edge 242:5 educational 14:5 effect 5:6 245:17,18 effort 52:22 114:20 115:2 209:23 210:5 egregious 180:4 egress 144:8,9,12 either 8:11 13:9 15:21 47:6 67:18 91:25 126:3,8 128:15 131:14 144:18 174:9 221:11 elaborate 59:9 electrical 165:11 electrician 61:8 elegant 232:10 243:7,18 elements 22:16 41:9 230:13 244:15 elevation 160:25 elevations 74:24 75:5 137:8,10 162:21 163:11	222:12 224:10 232:6 246:24 elevator 68:9 159:23 elimination 159:22 elsewhere 90:9 else's 103:4 emphatic 185:16,17 185:18,18 employed 6:14 182:13,15 employee 29:9,9 employees 92:21 employment 15:9 enclosing 116:25 encompass 206:19 encounter 31:23 end 51:11 90:2 96:19,20 110:18 111:10 130:3,4 132:20 246:14 engage 7:14 10:13 59:12 engaged 168:3 199:8 engagement 29:15 32:5 168:15 England 14:9 enough 47:11 112:11 123:16 177:15,21 219:7 entered 21:23 24:14 24:18 36:9 44:11 48:10 53:21 enterprises 13:11 entertains 88:16 enthusiastic 102:25 entire 44:23 180:2 entirely 121:17 230:16 entities 10:13,18,19 10:21 11:22 13:14 entitled 141:8 153:16 173:10,17 173:20 175:19 176:19 177:7,14 177:18 227:19 entity 9:22,23 10:2 11:12 28:13 41:15 42:14 189:19 entrance 158:18 entry 71:22 161:19 207:18 envisioned 39:5 211:9 episodically 28:8 equal 152:25 equating 40:14	ERRATA 248:2 ESQ 2:8,16 3:9 establish 23:12 134:15 established 47:10 175:5 establishments 59:10 estate 12:4,19 13:2 13:10,14 100:10 101:14 estimate 16:7 23:4 35:23 79:20 122:20 123:2 214:6,7,10 215:14 251:19 estimated 54:3,6 132:10 estimates 123:19 133:5 et 95:10 251:14 etc 130:10,11 248:3 Europe 90:10 EVAN 2:8 even 36:7 43:4 62:4 62:6 80:20 86:25 100:12 104:24 111:13 132:23 134:13 149:25 162:17 163:17 164:2 165:18,18 169:15 171:7,8 199:23,24 216:17 216:22,23 228:24 233:7 238:24 246:9 evening 29:17 30:4 event 22:22 32:4 179:23 eventually 44:11 ever 4:12 12:15 15:14,16 18:24 65:14,17 66:20 70:4 79:24 80:5 82:8 86:6 87:19 91:16 95:21,24 97:4,9 125:24 129:23,25 130:2 146:2 148:25 149:2,3,4,5,21 150:16 151:6 152:16 164:17 171:8 175:6 184:10 185:10 186:11 187:8,14 245:11,14,19 every 103:6 215:22 everybody 48:2,4	127:17 129:7 246:19 everybody's 234:14 everything 4:24 29:7 43:12 52:25 62:19 93:12 99:11 126:21,22 130:9 140:17 168:4 215:17 evidence 154:12 169:9 evolved 128:12 134:16 evolving 114:15 exact 43:14 203:20 exactly 20:5 21:8 29:9 38:4 64:24 78:8 93:16 101:18 115:4 121:6 132:22 135:20 146:7 174:16 178:17 209:9 222:4 228:8 237:15 239:5 247:6 EXAMINATION 4:5 77:8 107:7 170:13 172:9 200:10 218:9 233:16 241:20 242:12 250:3 examine 176:9 examined 4:3 examiner 75:3 example 76:5 133:9 137:19 138:5 144:4 162:6 184:3 187:17 208:24 232:13 exceed 80:8 except 93:5,12 159:22 excerpts 67:11 250:23 exchange 65:9 81:4 94:3,10 95:8,13 97:5,10 173:11 251:11,13 excited 33:14,17 86:11 210:8 exclusive 17:25 excursions 90:12 Excuse 185:18 192:15 executed 41:14,23 42:18,21,24 46:20 46:25 executive 39:8 40:2
--	---	---	---	---

40:19 42:6 45:23 46:6,10 50:8,15 75:15 144:21 168:18 EXH 13:17 27:6 57:9 65:2 67:10 76:21,24 77:3,5 94:3 95:8 98:10 115:21 122:19 136:13 138:17 139:13 170:17 213:5 exhibits 99:5 250:15 251:3 252:3 exist 151:5 160:22 162:11 existed 123:8 161:3 198:2 existing 26:20,24 33:23 34:10,16 43:2 71:14 158:19 199:13 exists 205:15 exit 144:11 expand 62:8 expanded 69:16 228:2,4 expansive 18:5,6 expect 20:6 216:2 expectation 99:11 244:14 expectations 80:2 126:25 expected 21:19 81:14,19 127:12 expediter 20:22 expended 81:11 expense 119:3 expenses 20:21 85:19 expensive 17:18,20 experience 60:14 115:14 172:18 Expires 248:24 explain 53:4 62:21 121:12 191:21 194:14 195:21 245:11 explained 17:2 20:11,19 21:9 39:14 54:23 61:13 154:11 explaining 20:18 81:10 exploring 26:17 exposure 22:9 expressed 20:10,10	expressing 82:13 expression 18:13 extended 35:10 extensive 18:15 210:12 extensively 203:18 extent 7:22 64:13 154:2 157:15 165:7 168:2 242:23 244:22 extremely 127:22 ex-wife 16:4 103:16 129:12,24 192:22 e-mails 95:20 104:17 189:23 212:24 241:25 F F 17:8 107:2 249:2 fabric 207:22 fabricate 53:5 229:15 236:4 fabricated 219:10 fabrication 59:25 60:4 86:20 170:25 fabricator 171:9,12 171:16 fabrics 131:3 fact 26:18 39:19 41:14 47:15 55:25 78:3 89:19 101:21 104:5 129:25 191:21 199:5 219:11 225:14 factor 211:10 facts 176:9 231:18 fair 41:10,11 47:11 58:21 123:16 144:11 197:15 221:23 229:21 fairly 35:9 112:16 138:6 144:2 218:23 fall 38:5 50:8 familial 125:12 familiar 19:7 67:25 97:12,12 171:20 190:4 208:21 familiarity 33:11 family 15:25 16:25 33:9 far 52:15 117:13,19 127:25 128:4 136:7 172:18 216:10,15 218:19 219:7 223:14 fashion 119:11 fashioned 43:22	father-in-law 16:6 17:5 100:23 favorably 103:2 faxes 148:17 fee 19:13,14 32:13 32:16 33:3 39:14 47:10 79:8 117:8 133:22 134:20 135:3,16,17 180:3 239:10 feedback 101:24 102:22 131:7 feeding 201:17 feel 18:10 102:21 158:11 165:7 186:3,4 212:9 feeling 100:5 102:12 103:11 fees 18:2 20:4,8,19 32:15 133:2 215:15,18 feet 197:11 fellow 18:20 felt 120:15 145:13 241:16 Ferrari 18:5 festivities 29:25 few 74:24 94:24 132:5 165:17 207:16 fifteen 81:10 fifth 204:5 fifty 84:14,19 122:2 122:3 174:7 238:13 fighting 128:13 file 33:23 34:10,13 34:16,19,24 137:20 142:12 146:20 157:7 166:6 168:19 199:12 234:15 filed 139:5 142:21 143:3 169:23 219:23 220:4 224:25 227:25 229:5,18,24 files 139:12,15 252:8 filing 38:20 39:9,17 45:24 49:18 50:5 50:17 142:5,6 166:2 232:5 244:7 244:11,24,24 filings 40:21 47:16 144:22 final 50:22 59:21 60:6,23 61:16,17	82:4 96:13 132:17 133:18 142:2 192:8 237:23 238:24 finalize 22:25 finally 189:17 196:6 finals 96:6 financial 13:4 find 21:5 35:14,18 55:21 168:7 208:24 220:24 227:21 233:13 fine 25:13 108:14 163:24 179:17 185:24 186:6 202:20 245:3 finer 22:9 fingerprint 70:8 finish 31:8 39:2 60:21 106:10 172:25 188:10,14 217:13 218:20 223:4,7 230:5 finished 60:10 239:6,13 finishes 22:11 fire 144:11 235:25 fired 149:11,12 163:24 164:2 166:2 236:19 firm 6:21 7:15 152:22 firms 14:15 first 9:17 12:3 15:2 15:20 17:11 18:10 19:12 22:7,23 24:12 25:14 26:22 27:24 28:17,24 29:2,2 31:3 38:9 58:8,12,14 66:20 68:11 71:13 83:24 109:2,15 110:23 111:22 114:18 119:16,20,20 134:4 145:5 150:4 151:6 159:25 164:11 173:3 191:7 192:10,18 199:9 207:18 210:9 214:12 215:8 225:10 241:12 first-class 17:17,22 127:13 fit 45:11 fits 195:13 five 155:4 167:4 209:12 211:21	fixtures 22:11 flanking 74:17 flash 112:13 flashier 112:19 flashy 112:22,23,24 flat-screen 186:21 flip 69:24 207:9 floor 2:14 26:13,20 37:7,8,13 39:2 75:7 86:17 92:12 99:7 137:11 focus 39:22 41:9 54:18 64:17 72:19 149:14 focused 60:15 63:20 70:18 163:9 focusing 72:12 folks 56:22 follow 109:23 110:16 followed 130:7 following 22:23 31:17 105:19 172:14 250:25 251:24 follows 4:4 44:9 107:6 176:12 follow-up 169:3 242:11 force 209:6 forget 103:17 192:22 forgive 228:13 form 15:17 23:18 32:5,6,9 44:24 50:16 146:7 162:24 182:9,10 184:23 194:14 formal 23:8 98:5 220:24 formally 24:8 format 99:6 151:25 215:9 former 124:14,15 forth 99:8 101:25 202:7 217:8 249:11 forward 34:19 forwarded 32:5 38:2 88:11 91:25 92:3 94:14 95:15 95:21 forwarding 55:15 56:7 234:13 246:22 247:3 four 25:11 29:4 69:25 199:3 239:9 239:13
--	---	--	--	--

fourth 198:15 203:21 four-and-a-half 169:25 211:21 foyer 63:25 68:6 69:17 70:15,16,21 74:8 75:7 88:22 89:6,10,19 105:15 131:11 158:18 159:2,3,4 163:9 frame 109:6 framing 138:8 frankly 126:24 free 212:9 freely 179:9 friendly 16:3,4 friends 125:2 front 5:24 29:6 44:16 111:6 159:18 174:23 frustrated 36:18 100:14 frustrating 83:2 101:23 126:23 127:3,5 full 45:6,11 49:16 49:25 141:18 217:9 218:22 full-sized 147:24 151:22 functionality 26:15 furniture 131:14 further 4:23 41:6 74:24 107:6 136:8 170:4 172:8 191:9 208:19 242:10,12 247:9,11 249:15 future 36:14	4:11 42:17,20 69:7,14 70:8 71:3 76:3 147:15,24 148:18 150:17 152:16 153:9 157:12 158:23 159:25 165:4 166:20 169:22 196:5,7,13,20 197:2,16 198:3 211:3,11 221:22 222:25 225:16,22 226:7,15 231:9 242:16 245:20,21 gather 221:9 gave 18:17 19:8 31:16 80:11 102:2 144:20 154:12 163:21 165:14 184:4,10 199:22 235:23 general 12:15 53:8 55:24 61:6 123:7 129:10 generalized 133:5 generally 127:7 generated 26:14 generating 217:9 generic 11:3 204:23 gentle 242:2 getting 56:15 60:17 64:7 89:2 97:4 101:13,24 102:21 104:3 184:25 194:10 202:4 225:20 236:6 GHA 166:19 167:16 GHA's 167:18 give 14:4 17:15,24 18:9 22:10,17 31:15 60:21 62:17 79:20,24 80:10 82:8 99:8,9 123:7 147:3,4,5 157:19 168:18 179:22 184:2 189:5 191:10 200:7 201:12 215:24 217:5 219:9 given 28:5 33:10 34:12 43:3,6 80:8 103:24,24 138:11 147:13,24 163:16 167:11,14 215:23 219:19 230:15 249:14 give-and-take 131:15	giving 22:7 57:12 65:5 global 155:3 go 19:16 25:21 32:22 43:12 44:6 48:13 55:6 58:15 61:7 64:18 71:19 74:25 76:14 88:20 90:11 98:8,9 106:9,12 110:2,5 127:25 146:8 150:8 151:8 152:16 154:7 158:8 159:24 168:19 217:14 218:7 237:3 238:5 goes 28:10 53:10 60:9,10 89:18,19 100:9 233:5 gogick 1:19 3:4 4:8 going 13:20 16:5,22 18:21 21:8 22:4,6 24:11 27:9 31:5 31:12 33:20 40:19 43:18 47:15,23 49:15 51:21 54:21 55:4,5,6 57:18 58:11 62:8,9 63:3 63:22,22 64:22 67:14 69:19 71:18 78:11,24 80:8 82:2,3 90:11,20 93:16,17 97:13,14 99:18 103:17 104:8 105:13 108:11 110:22 116:4 124:3 125:17 127:13,21 127:24,25 132:18 134:11,13,17 136:17 149:13,18 150:12 160:13 162:3 166:8,11,11 168:4 170:15 172:13,23 175:7 185:3 191:4,6 192:11,14,23 194:19 195:10,12 198:19 209:6 210:11,15 212:19 212:23 216:4 221:18 222:22 225:8 233:9,14 238:25 239:5 244:13 gold 208:8 gone 64:5 68:24 151:13	good 16:12 52:23 76:19 86:8 124:2 126:22 172:11 222:23 237:6,10 gotten 219:16 governmental 49:19 50:6 governs 169:8 go-to 123:25 grade 21:14 graduate 8:20,24 14:10,10 graduating 14:12 granted 163:6 graphic 243:18 graphically 243:9 graphics 232:8 243:2,4 great 18:23 31:11 33:14,16 34:9 102:2 103:25 127:21 223:12 247:12 greater 20:13 greatly 223:22 group 13:16 15:12 104:8 110:2 188:22 grouping 83:24 139:18 guess 18:20 33:13 53:13 88:4 104:23 109:19 114:15 123:6 133:17 146:22 216:3 221:6 232:18,18 234:19 236:24 238:7 guidance 215:25 gun-shy 209:22 guy 28:5 91:5 148:24 149:5,11 163:17 195:18 233:7 242:7 guys 220:22	108:11,12 113:15 124:3 125:17 136:17 141:2 170:15 206:6 207:10 224:24 225:3,8 233:20 240:23 249:21 handed 77:10 95:12 98:13 handicap 144:15 handicapped 75:11 handing 13:24 23:19 27:11 55:12 65:8 66:17 78:13 81:3 83:4 88:2 90:16 92:16 94:7 94:9 96:24 98:15 113:17 124:5 130:13 131:18 136:21 141:4 handle 43:17 handled 180:25 hands 99:9 handwriting 147:5 happen 145:11 163:23 happened 163:14 186:19 190:20 192:4 219:12 231:2 235:9 happening 154:12 happens 132:20 happy 54:20 59:11 127:19 128:15 harassing 198:16 hard 25:6 82:25 harder 222:19 hardware 39:2 163:12 208:20 having 4:2 25:5 64:10 74:14 90:25 91:23 107:4 164:24 206:21 209:21 213:3 221:3 223:22 hayden 1:11 3:5 4:9 4:11 42:17,20 69:7,14 71:3 73:24 147:15,25 148:18 150:17 153:10 158:23 162:24 166:20 167:8 169:22 196:5,7,13,20 197:2 199:7 211:3 211:11 221:22 224:9,14 225:16 225:22 226:8,15
--	---	---	--	---

227:18 229:24 230:17 231:9,19 Hayden's 70:8 71:6 72:6 76:3 148:5 152:17 157:12 159:25 160:4 161:15 165:4 197:16 211:9 214:16 222:11,25 229:17 232:25 242:16 243:6 245:20,22 246:5 headed 136:14 138:19 139:14 251:21 252:5,7 heading 45:11 48:17 heard 14:24 65:17 91:16 hearing 15:17 held 28:13 107:11 140:20 help 119:21 128:16 208:18 helpful 33:22 58:5 her 9:17,22 15:8,24 16:4 88:13 90:12 109:19 124:17 130:5 152:23 157:22 189:14 201:11 207:4,7 241:24,25 242:4 245:15,20 hereinbefore 249:11 hereunto 249:20 he'll 61:9 hierarchy 243:23 highlighted 151:21 highlights 108:22 highly 217:4 high-end 19:7,11 him 16:24 18:4,19 19:12,13 20:7,8 20:11,15,18,19 24:16 25:7,17,21 26:13 27:24 29:3 29:17,17 35:23 38:5,6 61:12,13 62:13,21 86:9 101:13 103:5 126:3 127:22 129:16,16 131:6,8 131:12 141:12 149:2,12,12 163:18,19,21 164:3,11,18 169:21 179:5	184:9 186:8,22 188:9 189:5 191:21 195:21 198:20 199:14 200:7 201:9 202:4 203:23 204:6 205:20 206:6 209:6 210:7,17 223:10 225:3 230:5 233:20 240:23 himself 95:5 hire 201:16 hired 235:22 historical 187:19 hold 168:21 198:10 Honestly 185:11 hope 190:9 hopefully 202:5 hopes 212:13 hour 106:10 170:9 hours 61:12 house 15:25 16:2,24 17:20 24:24 29:4 29:19,20,21 housed 13:6 Hum 57:25 hundred 16:2 84:7 84:10 87:4 119:8 120:23 121:21,22 133:14 134:20 218:11 238:3 247:5 hypothetical 176:7 176:8,12,25 221:19 236:14 I idea 17:15 22:7 54:19 56:10,17 66:23 88:16 95:4 95:7 96:20,21 105:2,11 169:13 171:6 173:15,25 174:2 177:12 207:2 224:23 ideas 45:17 109:20 109:21 111:24 112:4 184:10 IDENT 250:15 251:3 252:3 identical 47:8 identification 13:18 27:7 57:11 65:4 67:12 76:23 77:2 77:4,7 94:5 95:10 98:11 115:23 122:21 136:16	138:20 139:16 170:18 213:7 identified 65:3 76:25 108:16 117:2 141:13 241:7 250:20 251:6 identify 21:4 132:22 180:12,13 241:7 identifying 199:6 III 3:9 imagine 87:11 111:11 imagined 163:23 immediately 37:25 implement 184:11 implemented 206:21 importance 22:14 54:23 important 18:19 imported 151:15 impression 18:20 35:12 86:3 114:25 improved 150:6 inappropriate 184:22 inasmuch 159:3 inc 1:10 2:12 4:10 7:7,9,12,14,15 8:2 8:23 9:13,14,15 10:3,11,23 11:3,8 11:21 12:10,10 13:10 23:23 28:10 28:11,15 41:14 43:22 44:2,12,18 44:21 153:21,21 153:24 155:3 172:13 incidental 71:4 include 37:7 132:14 242:23 244:5 included 48:25 54:7 68:13 99:6 166:22 196:12 212:25 244:6,23 including 82:2 132:10 215:12 incorporate 50:21 131:8 186:25 224:15 230:17 232:14 234:21 incorporated 130:24 131:2,5 142:20 155:14 159:4 165:20 167:9,22 186:15 224:10 244:17,21	incorporating 228:15 incorrectly 228:24 indicate 18:25 34:23 65:20 93:4 149:18 indicated 41:6 92:23 98:23 100:23 155:21 159:13 244:2,9 indicates 87:3 indicating 89:16 121:20 129:4 217:19,20 indication 22:10 34:12 79:25 118:20 219:22 individual 9:16 18:6 inelegant 232:15 inform 164:18 information 31:14 31:17 43:7,15 143:12 166:19 189:15 207:14 212:10 217:6 222:15 231:25 246:8,16 infringement 155:10 226:25 227:20 infringes 155:5 initial 22:12,13 26:19 28:23 32:12 63:4,13 114:25 134:5 210:7 initially 54:12 70:18 196:4 215:25 initials 156:10,16 initiation 60:3 inkling 192:10,14 192:17,19,20 innocent 169:16 input 20:15 30:22 115:3 123:9 183:9 184:7 188:23 197:24 inquire 95:21,24 inspection 106:5 installation 93:18 installed 222:21 instance 180:12,14 180:15 181:4,7 187:9 208:7 instances 157:10 158:11 180:10,22 186:18 instruct 178:11,12	instructing 198:20 203:23 instruments 52:10 52:17 168:14,22 169:6 intended 22:19 40:7 52:20 99:8 142:20 intense 170:2 intensive 211:22 intent 137:23 138:8 intention 40:9,12 interaction 25:3 interceded 130:2 interchangeably 40:15 interest 152:24 interested 26:8,9,17 206:21 249:18 interests 7:4 interfered 126:17 interior 7:24 8:8,12 10:9,11 11:4 12:11 36:23 38:11 38:14,23 39:6 41:3,9,15,19 45:6 45:12,15,18,19 47:14,18 48:17 66:11 78:4 85:9 92:6,11 99:16 106:7 115:15 137:8,10 166:10 169:11 204:15 232:6 244:17 intermediaries 164:7 intermediate 88:15 internal 144:13 interpret 64:20 115:9 interpreted 40:13 interrupt 102:6 204:8 223:9 230:20,22 interrupting 216:19 interruption 60:12 94:18 190:24 241:18 intervention 210:12 intimately 153:6 intimidate 198:17 intimidated 242:3 introduced 15:23 16:6 investigation 15:18 invoice 78:19 79:2,2 79:6,11 83:10,12 83:14,18,19 87:3 115:22 116:10,11
---	---	---	---	--

116:11,13,17,19 116:22,25 117:5 117:21 119:6,13 119:20,20 120:6 120:11,18,19,22 121:13,13,19 122:12 131:21 132:3,11 133:10 133:13,13 134:18 134:19 135:6,23 215:9 251:17 invoices 5:25 13:18 13:25 83:15 116:6 117:25 118:21 132:15 133:4 134:6,23 250:16 involve 22:24 210:5 241:25 involved 13:8,12,14 19:10 21:15 22:2 36:24 42:7 68:11 94:25 96:2 100:15 101:13 153:6 166:9 188:17 199:8 204:16 210:6 involvement 51:6 69:11 70:9 91:17 125:12 148:15 151:3 202:7 involves 153:5 involving 57:10,13 250:18 israel 2:11,16 5:14 136:11 170:6 172:10,12 179:7 182:5,8 184:24 186:8 189:5 192:15 197:21 198:20 200:7,11 202:12,16,20 203:19,22 204:6 206:6 212:15,23 213:14,20 216:20 218:7,10 220:12 220:19 225:5,8 233:12,17,20 234:2 240:23 241:21 242:6,10 242:15 247:11 250:5 issue 55:4 61:2 118:21 119:19 141:8 144:15,16 144:17 154:6 161:25,25 issued 46:15 79:6 119:20 120:5	131:23 134:22 135:6,23 141:19 issues 54:25 136:6 142:3 202:6 issuing 218:22 Italian 59:7 92:24 93:4,11 171:9,12 171:16 193:24 195:3 233:7 Italians 58:25 59:16 62:14 63:3 86:18 90:8 170:24 171:5 193:18 194:10 201:19 234:23 235:17 236:10 245:4,12,15,19 246:10,13 Italy 90:3 92:6 94:20 219:14 229:13 230:2,11 233:5 item 84:22 86:23 items 119:4 iteration 26:22 J January 14:21 98:17,20 100:3 104:17 105:3 108:17 111:12 112:3 116:13,20 122:13 123:3 125:20 126:6 139:12 job 25:9 33:14,16 41:13 109:18 110:24 117:18 125:11 157:25 176:5 206:13 207:11 246:15 jog 58:7 jogging 58:6 judge 5:7 Julie 101:20 104:4 124:13 125:9 126:12,14 127:15 127:19 128:14 July 16:14 jumping 195:22 June 71:7 72:7,10 72:16 73:6,14 145:19 jurisdiction 15:14 jury 5:7 K keep 90:17 109:8 201:10	keeping 244:2,12 keys 28:22 kid 102:17 kill 103:18 192:23 kind 11:2,17 20:12 20:16 26:23 29:6 35:13 36:9,21,24 37:16,17 48:4 60:14,22 62:18 64:2 68:22 71:4 73:13 74:5 80:11 82:8 86:19 99:5 99:10,14 100:21 100:25 101:5,23 102:2,24 109:9 112:13,16 123:7 126:10 131:16 133:5 134:14 136:6 140:16,19 153:2 166:4 171:14,15 174:17 188:4 195:12 201:8,23 204:23 215:17 219:21 232:3 246:15 kinds 35:10 46:5 127:5 kitchen 26:6 29:5 37:16 62:9 63:17 197:10 knew 22:3 47:21 48:2,4 81:25 103:20 126:11 166:2 215:20 knock 160:12 knowing 169:14 knowledge 95:5 165:9,12 180:19 190:19 191:23 231:14 232:22 knowledgeable 195:19 knows 171:6 172:25 234:15 Kofman 17:6 125:10 126:14,17 128:5 K-o-f-f-m-a-n 17:7 K-o-f-m-a-n 17:9 L L 4:2,2 107:4,4 label 11:3 labeled 116:10 lack 126:25 LaLique 130:20 232:13 234:4,18 language 53:14	191:7 203:6,9 205:16 lapse 14:22 large 68:5,5 130:25 147:6 186:20 largely 233:4 larger 99:6 104:7 209:12 244:8 last 9:21 23:22 29:16 49:16,23 55:13 81:6 100:5 102:12 103:11 134:19 158:5 186:9 202:12 238:8 240:4,9 lastly 122:6 later 6:22 61:12 72:13 83:5 207:16 latest 190:8 law 38:22 144:15,24 212:18 lawsuit 28:9 172:14 224:17,20 227:18 229:23,23 lawyer 154:4,7 164:13 180:8 220:9 228:12,23 229:2 lawyers 192:6 200:14 lay 108:12 layers 137:18 layout 33:24 34:10 34:16 68:4 89:6 147:16 199:13 211:12,16,20,22 211:25 229:6 layperson 99:24 lead 59:25 77:23 109:11 leading 19:5 least 35:24 38:10 54:11 59:16 78:2 79:8,16 112:3 134:11 136:7 155:25 173:19 237:11,21 242:17 leather 207:19,23 leave 18:19 98:9 152:19 159:24 172:23 left 5:4 37:17,19 legal 13:4 40:10 173:14,22 175:22 177:10 179:14 224:22 235:12 236:21 legally 12:24	length 82:14 Leslie 65:11,19 less 39:21 87:17 120:16 134:13 210:23 223:14 238:4 243:7 244:4 let 5:11 23:14 30:15 31:8 57:20 66:14 87:24 131:17 138:14 139:10 146:8 175:13 188:9 189:2 204:6 204:25 208:18 223:4,7 230:5 245:9 letter 5:25 6:24 125:15,17,21 126:4 128:4,7 131:23 164:6 192:17 letters 148:17 let's 27:5 57:8 64:13 64:17,25 72:25 94:2 115:19 119:19 146:22 158:17 159:24 160:10 170:6 175:14 176:4,13 235:14,15 239:8 level 153:5 161:25 levy 1:21 249:7,24 liability 39:15 45:25 liaison 60:15 Liberty 2:14 Libracon 91:10,12 91:14,16,20,25 94:4,11,19 95:9 95:14 189:20 190:5,15 251:12 251:13 library 26:9 62:10 62:11,12 63:17 64:16 70:24 71:18 74:2 76:6,7 96:14 114:6 159:11 170:25 197:12 208:7 229:15 230:12 232:13,16 232:17 233:8 234:21 246:24 license 14:19 15:13 licensed 8:9,11 11:6 11:15 142:12 155:23 licensing 15:18 licensure 7:18 14:15,17 life 22:9
---	--	--	---	---

lighting 22:14 39:3 89:15 93:13 115:12 lights 208:8 likely 20:7 21:24 38:12 limit 80:21 210:23 limitation 80:12 82:8 172:22 limited 64:8,17 69:15 70:21 75:25 75:25 76:3 106:7 145:14 162:4 182:8 197:8 211:15 limiting 211:10 line 53:18 74:13 128:2 142:13 243:5,10,19 248:4 lion's 117:8 Lisa 30:7,8,9,14,15 30:19 102:17 list 110:10 117:22 187:5 206:19 listed 90:25 95:19 221:10 lists 114:4 literal 194:24 231:19 literally 187:19,20 231:20 litigation 4:9 little 61:23 62:5 82:23 83:2 101:6 101:7 103:18 104:4,11 105:15 112:13,17 126:23 126:24 127:3 131:15 132:8 135:24 136:8 142:18 151:20 185:12,23 187:18 187:21 194:24 195:13 201:18 206:10 208:19 212:21 215:10 217:21 232:9,10 238:13 240:5 243:3,4,21 live 26:7 177:19 living 17:2 26:7 70:24 71:16 74:2 131:2 148:9 159:10 161:2 163:9 186:21 207:24 LLP 1:19 2:4 3:4 Lobby 207:18	Local 144:14,24 location 143:21 loft 26:7 lofty 112:8 loft-like 139:25 184:3 logistics 119:4 London 14:9 long 36:19 57:22 128:7 longer 21:25 117:22 look 27:12 37:2 44:16 52:3 55:6 56:13 57:14 65:7 72:6,25 78:14 97:7 104:24 108:21 111:5,22 112:15 115:19 119:2 124:6 133:12 134:18 140:18 157:6 159:13 160:3 172:6 179:3 189:3 189:10 190:25 191:2 193:11 199:16 200:12 205:2 206:4,11 207:16 209:9 211:18 213:8 222:11 225:19 229:17 233:9,18 234:10 239:18 241:2 243:21,22 243:23 looked 35:21 62:21 75:23 81:7 134:10 220:21 238:8 looking 22:11 26:2 36:22 39:18 60:19 62:7 68:5 69:8 71:5 72:14 78:7 81:17 83:11 96:10 101:10 104:21 109:13 110:15,23 111:4 112:4,17 120:18 133:15,16 133:18,22 134:19 135:2,14 140:8,10 142:20 143:12,16 147:22 151:23 156:21 167:4 179:10 212:22 217:17 234:7 238:7 240:2 looks 73:14 74:4 88:25 148:6,7 159:10,11,14,17 loop 234:13	lot 22:5 25:2 26:13 26:23 64:5 92:25 114:20 115:2,3 131:11 137:24 140:24 217:3 219:20 222:18 244:9,9 246:8,18 loved 107:24 210:13 lovely 29:17 lunch 124:25 Luncheon 106:15 luxury 19:6 <hr/> M M 122:20 251:19 made 32:19 39:21 52:22 98:6 105:15 114:10 143:15 145:6 171:23 182:19 190:9,15 196:11,22,25 197:17 mahogany 143:15 mail 126:5 main 68:8 227:5 maintain 109:6 make 104:5 109:24 172:5 181:24 182:24 185:19 197:11 198:7 200:5 209:11,23 210:5 240:6 makes 218:3 making 29:7 38:21 59:17 92:7,11 182:8 183:7 204:10 205:14 233:5 man 18:23 manage 13:2 management 10:14 11:9 12:12 13:9 13:13 51:20 54:25 204:21 manager 56:11 61:6 65:12 201:12,16 201:22 managing 61:11 Manhattan 17:19 22:19 26:3 manner 242:4,6 manufacturer 92:24 93:4,12 171:9 many 23:4 24:15 35:22 82:25 149:9 152:4 mark 6:22 13:15	27:5 57:8 64:25 67:6 94:2 212:23 marked 12:2 13:18 13:21 23:16 27:7 27:10 32:10 55:11 57:10 65:3 66:15 67:12,15,16 69:20 76:22,25 77:4,6 77:11 78:12,24 80:25 87:25 90:14 94:5 95:10 96:24 98:11,13 99:18 111:8 113:16 115:23 116:16 122:17,20 124:4 125:18 136:15,18 138:14,20 139:11 139:15 141:2 155:4 170:16,18 212:21 213:3,7 225:9 242:18 marketing 43:5 199:24 marking 225:12 marriage 249:17 married 30:11 master 70:25 71:23 71:24 72:4 74:20 86:24 87:5 89:14 89:25 97:15 104:19,22 109:20 111:24 112:5,7 113:10 114:6 139:23 159:16,18 161:12,13 163:10 163:10 241:13 match 146:24,25 material 5:23 37:14 43:9 59:24 60:21 99:7 104:12 131:9 162:9 163:15 187:9 199:7 243:20 244:6,9 materially 150:5 materials 6:6 38:25 42:19 43:5 115:11 130:23,23 131:4 140:8 144:3 162:8 162:18 163:12 188:3 199:24 217:8 math 133:24 matter 100:10 143:18,21,24 144:3 153:2,20 249:19 may 1:14 10:16,25 20:24 25:20 30:10	30:10,10 31:3 37:13 46:18,21 47:9 50:11,24 54:9 66:23 68:13 69:17 80:8 87:22 90:8,10,11 91:24 92:11 99:5 100:12 100:12,13 101:16 102:19 103:15 113:9,12 121:4,16 134:8,13 139:8 150:19 155:8 156:6 157:8 165:23 167:6,13 167:25 168:12,24 169:16,17 172:17 172:25 175:11 182:4 187:2 188:23 192:2,24 193:23 194:12 199:23 204:11,13 212:25 221:5 228:23,24 230:9 231:2,2 243:15 244:20 246:4,9 248:3 249:21 maybe 15:25 16:23 29:4,19 55:8 58:13 65:13 107:18 113:4 118:12 136:8 143:6 152:7 163:16 164:20 173:2 190:3 199:24 217:24 230:12 246:18 mckee 3:9 4:6,7 13:15 19:19 27:5 39:23 46:22 57:8 58:3 63:9 64:25 67:6 76:18 77:9 94:2 102:9 106:8 107:8 108:8 118:15 128:22 136:12 141:12 154:16 170:4,11 170:14 172:3,7 189:7,9 200:5 233:22,24 240:24 242:11,13 247:9 250:4,6 McKee's 203:18 meaning 24:4 40:14 245:16 means 84:19,25 144:11 165:9 214:10 meant 59:22 61:16
---	--	---	--	--

63:6,11 86:2 93:7 117:10 165:25,25 243:9,11,17 244:5 measure 43:12 58:12 199:9 measured 43:10 68:19 200:2 mechanics 174:18 180:24 medallion 1:10 2:12 4:10 24:5 28:10 28:11,15,20 43:22 44:18 126:22 153:9,21 172:13 173:4,17 174:21 175:14,19 176:4 176:13,18,24,25 177:6,7,14 191:10 213:6,13,17 221:21 235:15 236:7,17,18 241:10 248:3 252:12 meet 15:8,21 18:4 18:22 20:3,15 21:6 37:23 79:25 80:7 109:10 meeting 17:11 18:10 22:7,23 24:24 25:14,24 29:14 31:13,17 32:5 65:21 100:5 102:12 103:12 107:11,14 108:5 108:16 109:17,23 110:9,11,16 111:2 111:5,23 118:11 140:20 200:15 206:13,24 207:17 210:7 meetings 23:8 25:25 28:23 86:9 109:7 111:5,10 member 155:17,19 155:20 memory 58:6,7 179:6 mentioned 20:24 21:8 33:22 68:23 145:5 mercurial 127:4 merely 168:6 merry 168:20 MEs 192:6 mess 169:17 message 55:19 met 9:21 16:15 19:12 24:12 25:7	27:24 28:18,24 29:3 35:6 37:23 38:3,5 65:13 98:2 100:22 114:18 154:10 163:19 164:3 169:18 174:12 metal 131:10 method 143:17 methodically 193:9 methodology 121:18 Michael 17:6 Michaela 9:18,19 16:13 43:16 58:11 58:15 77:21,25 88:4,5,8 95:9,14 96:5 107:17 109:8 110:12 123:3 124:12 125:11,14 127:15 130:8 138:12 141:22 151:13 157:17 171:6,18 188:17 189:12,17,23 190:18 230:13 233:5 234:5,6,8 234:11 241:4 246:14 251:14 Michaela's 123:6 206:24 229:12 mid 123:3 middle 100:24 119:2 166:15 186:21 191:7 195:24 196:11 209:11 241:2 might 20:21 21:20 22:13 24:24 25:4 27:4 31:7 43:4 57:21 101:7 104:6 111:13,13 113:7 114:20 124:24 172:15 194:22,22 208:5,6 mill 236:10 Miller 65:15 million 54:14 79:19 79:22 80:3 81:8 132:4,10 134:2 166:5 175:17,17 239:3,9,13,14 millwork 194:2 215:12 230:10,12 231:5 234:24 235:14 236:4 246:11,25 millworker 93:24	millworkers 195:3 millworking 219:14 mind 42:13 103:19 104:6 181:6 217:12 mine 108:22 Ming 113:21 miniature 67:11 250:22 minimal 106:4 minimis 218:23 minimum 216:4 221:24 237:12 minor 46:18 210:19 minute 69:24 82:21 233:13 minutes 109:6,23 110:16 111:5,23 miscellaneous 68:24 mischaracterizes 180:18 188:7 197:20 208:12 223:25 238:17 mischaracterizing 208:14 misquote 243:14,15 misspeak 70:12 misstates 165:22 237:24 misunderstanding 79:14 214:19 misunderstood 243:16 MO 174:19 202:12 250:11,12,13 models 92:8 190:10 190:15 modest 63:21 modifications 46:19 modified 114:14 moment 27:12 39:23 57:14 75:2 78:14 129:4 130:6 146:9 192:17 195:23 213:8 moments 94:24 132:6 165:17 money 54:13 82:14 173:4,5 177:16,22 monthly 118:24 119:6 months 59:20 60:2 82:25 169:25 210:18 211:21 more 21:19 25:19 25:21 26:21,23 31:18,24 35:25 43:6,25 47:13	54:18 62:10 63:15 63:20,21,23,24 70:18,20 75:23,25 76:3 98:8 112:8 112:10,13,17 113:7,7 120:2,15 132:8 135:24 138:24 139:3 149:14 157:19 170:12 179:23 187:11,16,21,22 188:3,17 190:19 195:13 205:3,14 205:23 209:12 210:12,23 213:4 217:21 218:16 232:10 238:13 241:22 243:9 246:8 more-or-less 194:20 morning 6:2 Moscow 19:6 59:10 91:6 129:13 most 20:7 35:17 38:12 55:14 83:9 158:3 163:3 213:22 241:24 mostly 59:6 mother 30:9 MOTIONS 250:11 move 128:16 174:19 202:12,16 moving 102:24 much 37:9 54:21 55:4 66:3 114:2 136:2 150:7,7 151:14,15 157:19 162:3 172:24 173:4,5 188:17 196:12 200:17 203:7 205:14 208:24 210:12 215:21 218:16 222:9,16 223:22 237:15 246:16 must 165:16 myself 204:14 N N 2:2 3:2 4:2 107:2 107:2,2,4 250:2 251:2 252:2 name 4:7 7:3 9:17 15:3 17:4 28:10 44:18 69:7,8 91:16 95:3 154:22 155:25 156:3,8 167:10 171:5	172:11 248:3 namely 194:9 231:19 names 36:2,5 narrowed 41:8 nature 23:11 45:19 131:4 nearly 16:12 222:23 237:8 necessarily 42:5 165:25 necessary 244:11 need 50:15,15 59:20 62:14 63:3 104:24 106:5 110:10 128:16 149:15 161:10 197:25 198:8 199:16,19 203:22 239:21 246:7 needed 104:19 123:23 194:15 234:17 244:23 negotiated 33:6 negotiating 39:13 negotiation 32:16 117:16 never 15:15 51:7 80:11,19 130:7,10 148:24 151:2 156:3 163:19 164:2 172:4 184:14 192:13 232:14 new 1:3,20,20,22 2:7,7,15,15 3:8,8 8:4,12 14:13 17:22 18:5,22 28:7,8 32:20 62:12 109:20 111:24 112:4 166:24 172:17 212:9,10 249:3,5 249:9 newer 162:10 newly 73:25 next 14:21 51:2 110:17 166:14 204:9 209:9 nice 242:7 nicer 208:24 none 30:24 109:24 196:16,17,18,22 normal 60:22 normally 217:13 239:6 Notary 1:21 4:3 248:24 249:8
---	--	--	--	--

note 29:17 90:24 117:7 172:3 215:10 noted 247:14 notes 52:19 75:12 108:16 109:8 118:11 137:21 138:5 143:4 144:23,24 206:24 209:10 nothing 197:16,18 202:25 205:22 247:11 notice 1:18 79:16 164:6 179:22 noticed 232:12 not-to-exceed 82:11 November 78:21,22 79:9 119:22 120:6 138:16,19 193:5 252:5 November-Dece... 128:9,21 nowhere 81:12 83:2 number 14:14 35:13 58:24 59:8 72:15 73:3 79:3 83:14,19 86:23 114:4 116:22 117:5 120:6,18,19 120:22 121:19 122:12 131:21 133:10,13,13 134:18 135:6 175:7 189:4 190:25 200:8 204:15 206:5,7 214:5 215:13 216:6 233:18 numbers 238:6	198:16 obviously 19:24 33:18 36:20 48:3 53:16 83:2 151:2 192:9 215:14,20 occasion 16:23 22:21 31:7,19 occasions 25:20 occur 210:4 occurred 108:6 111:7 occurs 162:25 October 14:20 77:12,20 108:17 136:15,25 138:11 251:22 off 19:16 43:13 58:3 58:4 106:12,14 128:22,23 133:5 137:18 151:25 159:23 185:4 189:7,8 219:19 225:5,7 office 6:2 11:3,9,17 11:18 13:3,7 14:20 15:2,10 46:15 53:15 56:11 77:23 104:2 107:19 140:22 150:20 151:12 154:20 182:14 196:10 232:6,25 offices 1:19 114:11 often 7:25 46:4 132:24 oh 12:6 21:17 44:19 49:24 58:19 75:2 88:12 91:14 120:10 200:19 201:11 217:17 234:12 Okays 93:25 old 88:25 212:10 once 14:17 41:13,22 60:6 64:8 194:17 235:18 236:19 one 10:21,22,23 17:8 19:17 21:7 25:19 28:9 45:22 47:6 55:14 57:16 57:17 58:24 67:7 67:15 82:22 84:7 84:13 87:15,17,17 87:18 90:12 92:21 95:19 98:19 102:7 104:4,16 109:13 110:5,17,23 113:5 117:21 127:24	135:14 139:24 141:12 143:6 145:5 146:14,25 147:2,3 161:22 170:12 180:12 181:16 196:6 199:9,23,25 205:4 205:7,24 212:20 214:17,24 215:8 217:19,19,25 220:8,9 ones 72:13 117:3 160:15 196:4 only 28:8 119:23 125:9 129:20 142:8 147:4 155:22,23 170:9 178:11 181:6 186:23 188:15 218:18 229:5 open 14:20 26:7 62:9 63:17 197:10 opened 15:2 opening 15:5,9 68:8 openings 75:10 operate 11:22 15:3 operates 7:4 opinion 103:4 154:5 opportunity 33:17 39:18 101:14 232:14 opposed 7:12 10:2,3 45:12 51:20 78:4 103:14 115:15 opposite 222:5 option 97:18 options 97:19 115:10 Orchid 113:21,21 order 22:25 43:16 53:5 59:23 60:19 63:2 68:21 80:6 155:9 179:20 197:6 214:22 217:10 218:20 229:14 orders 132:24 ordinary 246:19 organization 26:14 92:2 182:19 organized 37:15 101:15 original 43:4 46:14 55:19 95:18 160:4 160:14 161:15 210:7 240:17 originally 167:21 198:2	originated 27:2 other 5:15 8:6,16,20 9:10,22,23 11:22 13:10 20:20 22:7 24:25 31:21 35:4 36:14 38:11 47:6 47:25 67:6,7,16 70:10 85:19 87:19 103:14 109:23 115:6 117:3,4 127:10 128:13 129:23 130:22 137:10,24 161:23 167:8 170:25 171:11 177:10 180:10,14,15,21 181:16 182:22 187:24 197:13 199:3 204:24 216:15 222:15 224:17,19 226:21 229:16 230:12 231:14,16 232:16 238:11 246:25 others 9:5 95:15 127:8 156:15 181:11,16 187:2 otherwise 15:21 65:3 76:25 93:11 115:22 244:7 250:20 251:6,17 out 13:3,13 31:3 47:15 49:7 51:4 60:9 63:23 64:16 66:15 67:8 77:23 85:6 89:19 103:21 103:23 109:11 113:25 118:25 119:21 120:4 126:8 127:23 128:15 143:15 144:10 146:20 147:6 159:8 160:21 164:17 175:15 177:4 179:4 186:22 187:17 195:24 205:14 214:22 215:3 220:25 227:21 233:13 237:9 245:24 outcome 249:18 outfitting 17:22 38:25 outrageous 178:13 184:19 outset 55:3 100:23 outside 11:20	182:18 over 16:24 18:4 29:12 35:9 36:25 89:20 98:8,9 101:15 103:8 104:13 160:12,14 167:15 192:5 226:11,21,22 238:3 242:4 overall 61:3 117:8 117:18 overlap 172:16 217:15 overview 99:10 owe 236:25 owes 177:5,6 own 14:18 15:9 26:11,17 38:16 42:12 152:17 214:9 237:6,10 243:7 owned 36:19 131:14 owner 9:15 44:8,17 44:17,24 45:7 49:18 50:5 79:20 79:24 80:6 112:4 114:11 115:3 199:17 241:8 owners 9:14 ownership 28:15 152:24 owner's 53:11 80:2 169:5 o'clock 102:7 106:8 172:23 o'neill 1:19 3:4 4:8
P				
P 2:2,2,11,16 3:2,2 4:2 107:4 package 111:23 113:9,12 page 23:23 32:22 44:6,16 45:4 48:14 57:19 105:19 109:15 110:3 119:3 139:22 143:10,10 191:7 193:12 200:12,14 206:12 206:15 209:10,11 214:2 217:23,23 240:4,9 248:4 250:3,8,11,25 251:24 pages 110:5 207:16 217:22 paid 164:12 168:4				

170:3 173:18,19 174:13 175:14 176:4,13,18 236:6 237:13,16,19 238:2,4,13 paint 93:16 pair 159:5 160:18 paneling 61:14,24 62:2,15 77:17,19 78:9 109:11 187:18 194:16,22 194:24 195:8 panels 130:17,20 232:13 234:4 paper 52:20 paragraph 48:20 49:16,17,25 51:2 166:18 167:16 225:20 parameters 64:4 paraphrasing 40:25 114:19 pardon 194:7 parenthetically 214:13 parents 16:4 Park 27:3 67:22 171:2 206:16 207:17 part 12:11 26:19,25 45:19 66:23 78:2 83:16 89:20 104:7 114:13 115:5,17 119:24 143:16 155:25 168:15 173:9 177:25 188:14 194:25 195:20 242:17 246:19 participant 29:24 particular 5:11 12:14 21:15 31:23 39:4 53:7 56:14 68:2 69:10 79:11 87:20 89:2,6 93:11 97:6,9 110:9 111:2 117:21 118:22 119:9 123:24 125:11 143:18 187:9 particularities 171:20 particularly 22:10 86:11 123:18 parties 47:21 249:16 partition 143:24	partner 9:23 15:5 30:13,13 125:10 148:25 152:21 219:13 245:10 partners 9:7,10,12 153:4 parts 93:5 115:6 216:24 217:10 party 41:20 129:6 129:19 pass 26:19 241:12 past 68:25 77:16 81:16 117:24 200:16 Patterson 164:15 pause 27:14 39:24 57:15,24 58:2 70:2 78:15 108:10 118:16 154:17 193:10 206:8 213:11 221:16 pay 149:12 168:19 169:25 173:4 177:15,21 228:19 236:2 237:14 payable 118:24 119:5 paying 180:2 235:16,16 236:18 payment 119:7 121:4 payments 49:9,11 118:18,23 119:5 pays 11:9 176:24,25 people 18:21 29:4 31:21 35:9,14 36:25 53:4 61:2 100:22 149:9 205:9 per 88:17 177:20 percent 31:4 32:13 32:15,19 33:3 53:22 84:7,11,14 84:20,23 85:2 87:4 117:12,13,18 118:3,5,8,9 119:8 120:23 121:21,22 122:2,3,6,9,14,14 133:14,21 134:20 135:3,7,10,13,13 135:15,16,17 215:16 218:12,19 percentage 117:11 120:12,14 239:16 perforation 73:10 73:16 perforations 73:9 150:15	performed 10:11 perhaps 21:19 period 21:11 35:10 42:2 246:21 periodic 90:12 periodically 12:11 permission 167:17 permit 72:15 73:3 105:9,10,11 106:3 106:3,4 150:14 permits 157:8 permitted 209:13 person 22:8 32:18 189:16 201:6 204:21 207:13 personally 91:21 148:24 220:8 231:13 perspective 231:8 perspectives 37:12 114:14 perusing 32:11 46:12 67:20 83:13 97:2 99:21 115:24 122:22 139:17 213:24 per-square-foot 134:14 phase 49:3 51:3,7 51:14,17 79:5 84:11,20 85:2 118:7,9,22 119:9 217:24,25 phases 48:20,25 49:12 117:17 Philadelphia 113:25 Philip 91:5,10,20,25 94:4,11,19 95:9 95:14,25 96:5 251:11,13 Philip's 94:17 phone 148:22 photographs 22:18 phrase 40:6,15 52:9 243:13 phrasing 228:23 physically 183:12 186:3 picked 41:24 pictures 99:24 232:21 234:4,17 pile 90:18 118:13 piles 37:16 pin 99:12 pinned 140:17 place 15:9 28:25 36:25 47:24 103:9	105:11 149:25 193:2 219:14 226:2,11 227:24 231:14,19 232:23 235:2 placed 4:20 200:9 233:23 239:20 240:25 241:23 Plaintiff 1:6 2:5 Plaintiff's 166:22 plan 26:13,20,23 43:3 59:18 61:25 70:19 71:6,14 72:7 73:24 75:3,7 105:16 137:11 144:2 150:13 160:24 162:22 163:4 210:9,10,11 210:13 211:23 240:17 plans 37:7,9,13 67:22 69:20 72:12 75:13 86:17 92:12 97:24 99:7 145:2 145:18 146:6 152:17 155:4 156:2,11,24 157:3 157:7,9,10 158:2 158:11 159:25 160:4 165:10 166:23 167:4,9,19 199:22,25 217:7 Plaza 2:14 please 5:11,16 14:5 55:21 96:5 124:6 151:10 178:18 186:9 189:6 191:3 200:8 204:2,8 206:5,6 223:9 233:21 239:19 240:22 pleased 129:7 pleasure 29:12 plug 85:24 86:7 plumber 61:8 plumbing 93:5,13 plus 165:11,11 pocket 74:5 76:10 161:6,7,8 point 24:7 26:18 54:20 62:6 79:13 79:20 82:7 86:5 86:20 87:6 95:20 99:15 100:7 102:13 103:13 105:3 111:15 117:3 118:25 120:4 122:7	126:11,21 127:11 133:8 149:17 160:21 166:8 169:10 174:25 177:7 184:24 192:16 215:2 236:9 238:24 239:2,3 portion 173:19,20 231:6 237:14 portions 142:19 166:22 171:19 219:15 246:23 position 62:17 135:6,9 positive 20:24 86:10 121:3 possession 47:2 50:13 possible 66:3 200:17 230:16 possibly 183:21,22 209:20 postdate 150:22 post-approval 105:14,17 166:12 232:4 potential 17:10 24:17 25:16 practical 153:2 practically 12:25 practice 15:12 109:5 practicing 212:18 preceded 36:11 precedes 71:10 preceding 38:2 80:21 precise 138:7 predate 160:5 predecessor 36:23 preexisting 34:16 prefabricated 93:15 preliminary 141:8 238:22 prep 93:10 preparation 5:19 123:10,19 prepare 20:14 50:19 75:24 99:4 197:6 prepared 14:2 34:13 35:8 42:19 96:15,19 107:10 110:10 113:12 122:20 123:3 138:12 161:4 170:24 175:20
---	--	---	---	--

176:19 191:13 198:9 199:7 207:15 211:3,25 221:22 224:14 227:7,8 231:20 232:6 236:17 251:19 preparing 38:19 present 36:5 86:9 presentation 99:6 99:16 107:10,22 111:7 136:15,25 137:17,22 138:10 138:16,18,19 139:12,15 140:15 140:21 210:10 251:22 252:4,5,8 presentations 85:12 98:5 presented 68:12 97:25 107:15 111:7 140:9 preserve 149:24 presume 114:12,13 155:11 174:14 220:10 235:3 pretty 35:17 117:13 117:19 136:2 165:6 197:7,7 216:10 243:25 previous 66:4 200:18,25 202:15 203:8 205:12 210:17 previously 12:2 23:16 55:11 66:9 66:14 69:20 87:25 90:14 96:24 99:19 107:5 113:16 124:4 141:2 145:16 198:9 225:9 price 82:9 201:12 pricing 201:18 202:6 primarily 78:3 85:9 169:11 primary 18:25 Princeton 14:11 principal 155:2 print 137:18 142:13 142:15 printer 142:17 printing 142:16 printout 27:6 250:17 prior 6:5,11 15:8,9 24:7 56:22,24	65:21 70:9 86:5 117:2,25 124:19 125:24 126:20 163:6 165:22 180:18 188:7 194:15 197:20 198:12 208:12 221:2 223:25 237:25 priority 58:24 193:19 privilege 19:24 178:14 probably 16:22 19:15 20:5 29:18 29:18 43:16 53:14 58:11,12 77:21 82:23 90:20 97:23 103:18 104:3,3,12 104:24 112:12,12 112:17 120:2 135:24 137:15 140:17 141:25 143:4,5 158:3,5 163:25 166:13 169:18 237:5,9 246:7 problem 136:4 problems 241:7,8 proceeding 5:17 229:3 proceedings 27:14 39:24 57:15,24 58:2 70:2 78:15 108:10 118:16 154:17 193:10 206:8 213:11 221:16 process 19:10 20:16 60:22 61:3,10 64:11 66:2 76:13 100:14 101:21 115:7,18 126:24 127:2 150:9 187:4 187:7 194:14 195:2,19,21 200:16 201:20 216:22 217:16 220:25 222:24 242:4 procured 152:6 154:23 produce 59:25 produced 59:8 66:16 67:9 172:4 172:5 200:13 213:6,13,17,21 252:12	product 36:22 82:5 157:3,4,5 211:20 production 47:4 58:25 79:16 98:24 136:20 182:14 188:18 193:18 194:10 products 208:22 profession 46:3 professional 14:15 29:8 40:24 41:2 182:13 professionalism 127:9 professionally 13:6 133:2 profiles 217:7 program 14:11 progress 49:11 projected 132:14 projection 238:8,9 238:12 projects 21:25 35:8 46:5 106:6 127:6 127:7 132:19 pronounce 9:17 92:18 properly 43:25 178:4,6 property 28:19 proportion 115:11 proportioned 243:23 proportions 217:8 proposal 32:13 proposals 49:19 194:21 proposed 32:6 38:2 44:10 46:14 210:9 225:10 prospective 113:10 prospectives 219:20 protected 19:23 protection 104:6 218:25 220:7 protocols 127:2 provide 4:17 12:9 12:12 24:9 30:22 41:15 45:6 51:13 51:17,21 131:3 212:9 provided 6:23 7:20 7:25 24:5 35:23 42:25 45:10 51:24 85:13 86:18 97:20 125:18 135:18 145:8 174:9 177:2 190:16 226:15	236:10 providers 36:15 provides 7:16 11:4 199:17 providing 7:24 11:13 38:24 92:8 93:21 214:11 234:4 provision 179:6 provisions 174:11 Public 1:21 4:3 248:24 249:8 pull 85:24 pulled 105:9 146:20 147:6 pulling 86:7 purchase 130:22 purports 241:6 purpose 228:22 234:3 purposes 30:25 137:22 pursuant 1:18 179:21 pushing 246:13,13 put 50:16 52:20 53:3 55:7 61:9 99:12 120:11,14 136:9 140:16 142:16,17 144:22 146:22 156:3 163:21 164:3 166:14 186:13 187:5,6,6 191:2 192:23 195:23 212:7 218:20 240:18 245:9 putting 118:12 157:18 229:22 P.C 1:5 2:11 6:25 7:13,21 8:18,21 9:8 10:4,22 11:11 11:21 153:9,17 155:18,18 p.m 58:23 106:15 107:3 247:14	19:21,22 23:7,11 31:2,4,6,9 44:15 63:8 72:19 125:5 128:18,20 141:10 156:23 168:6 169:3 173:3 176:2 176:3,8,23 182:10 182:12 183:14,15 185:2 186:9 188:10 198:14,23 198:24,25 199:2 202:17 203:3,20 203:25 204:5,7,9 205:25 211:7 212:9,10,13 221:19 223:5,8 224:3,5,6 225:4 225:13,22,25 226:6,7,19 228:14 232:19 236:2,5,6 239:25 246:2 questioning 5:10 184:23 203:19 questions 4:16,17 4:24 104:14 113:2 127:25 158:5 170:5,12 172:8,14 172:15,17 178:13 184:19,21 185:20 198:11,13 212:16 227:19 241:22 242:10 247:10 quick 19:17 quickly 20:11 66:2 200:17 quite 215:6
R				
R 2:2 3:2 4:2 107:2 107:4 249:2 raised 194:5,9 raises 5:15 rambling 230:22 random 22:14 37:5 37:6 rapidly 104:8 rarified 18:18 ratchet 185:5 rated 144:7,11 raving 127:18 re 115:22 251:17 reach 79:21 126:8 164:17 reaching 220:25 react 187:16 reaction 107:21 read 57:16,21 72:16 73:4 141:11				
Q				
quality 59:12 150:2 150:6 243:18 quantity 201:23 quarter 152:2 238:4 quarter-inch 211:20 quarter-sized 67:11 67:15 147:7 250:22 question 5:11 10:17				

161:10 168:24 186:8,10 190:12 191:4,5,16 199:4 reading 86:17 203:6 205:16 reads 55:21 ready 201:21 204:22 218:22 222:2 real 12:4,19 13:2,10 13:14 100:10 101:14 162:25 realize 52:22 53:6 realized 114:19 126:12 really 28:4 33:14,16 39:22 53:19 54:18 55:4,5 60:13 68:17,20,25 70:12 104:12 105:2 110:12 121:11 127:22 136:3 142:25 154:9,10 157:18 162:2 170:2,2 174:2 175:12,25 176:22 185:5 197:14 211:12 241:14 246:7,13 reapplication 64:23 reason 47:12 54:6 56:6,14 114:23,24 114:24 120:13 125:9 132:9,13 142:10 153:24 187:23 213:18 reasonable 214:6 215:14 reasonably 216:2 reasoning 154:3 rec 67:21 recall 25:9 26:5 30:3,4 34:17 36:7 38:4 42:11 43:8 43:14 68:16 69:4 75:19,21 78:8,10 80:4 81:23 82:19 82:20,22 87:11,23 89:2,4,5 90:25 91:19,23 93:19 94:24 97:4 101:18 107:20 108:4,5 113:10 123:14,15 145:4,8,20,22,25 146:2,17 147:10 147:12 168:23 186:24 187:3 188:24 206:3	221:3,5,8,11 receipt 119:6 receive 126:5 173:6 received 56:2 95:20 121:4 171:11,14 173:12 189:24 receiving 75:19 78:18 91:19 recent 55:14 83:9 recently 17:20 recess 76:20 106:15 170:10 200:6 218:8 233:15 241:19 recipient 90:25 recipients 95:19 recognize 23:20 24:3 27:16 36:2 55:17 65:9 66:18 67:18 77:12 78:16 81:4 83:6 90:22 108:19 113:18 116:2 122:23 124:8 129:2 130:14 136:23 137:4 138:21 139:18 141:16 148:3 169:21 recollection 33:7 55:24 69:9 80:23 82:10 87:16,17 97:8 110:25 129:10 141:20 147:23 reconfiguration 26:24 71:22 72:3 74:7,10,17 reconfigure 64:16 reconfiguring 161:19 163:4 reconsidered 209:21 record 7:23 11:6,13 19:17 31:3,8 38:18 39:16,19 40:6,20 42:6 45:21,23 46:11 47:23 50:9,13,20 51:25 58:3,4,16 58:20 75:16 106:12,14 128:22 128:23 142:8 149:19,22 161:10 164:17 178:16 184:20 186:10 189:7,8 199:4 207:9 213:16 220:18 225:6,7	238:17 249:13 recorded 4:25 171:16,19 183:20 recording 171:23 172:4 redesign 63:25 redo 89:16 redoing 88:17 194:19 redrafting 63:4,13 refer 10:18 30:5 133:9 178:21 205:3,7,10,11 217:22 reference 12:20,23 30:7 33:25 50:4 54:3 59:19 63:5 66:5 88:18 96:7 101:8 103:10 110:19 116:19 129:19 130:16 166:25 193:17,20 193:24 206:12 209:16,18 referenced 13:11 31:13 51:25 79:9 125:22 references 12:19 33:2 52:4 53:22 83:9 109:24 116:17 125:14 129:15 referencing 59:2 94:20 96:16 100:4 187:19 referred 10:20 33:9 44:13 78:9 90:9 101:19 149:10 205:24 214:25 242:21 referring 12:5 41:19,22 77:19 79:2 89:7,24 107:9 116:21 162:13 refers 46:10 78:18 227:23 refiling 145:2 reflect 114:15 244:25 reflected 79:10 132:5 183:17 197:17 211:3 reflection 120:7 refresh 69:9 97:8 147:23 refuse 203:3 regarding 49:8	125:11 164:8 register 154:19 218:24 219:2,3 registered 8:3,9,11 8:16 180:11 219:5 registration 15:13 rehabilitation 30:19 reimagine 26:20 reimbursable 119:3 relate 83:12 103:13 related 13:5 31:24 35:4 70:8 86:24 97:14 119:4 128:19 249:16 relates 85:5 91:13 97:22 118:21 121:13 relationship 30:13 51:10 59:11 60:18 124:21 128:12 130:3,3 131:24 193:25 relevant 185:21 remained 218:16 remember 20:5 32:17,21 37:8 38:6,7 65:25 111:19,21 140:3 146:5,5,7 152:5 188:21 221:7,7 render 243:20 rendered 173:10 177:8,15 182:2,20 renderer 217:5 rendering 97:24 renderings 37:9,10 86:12,13 99:7,25 104:18,22 113:10 113:23 198:8 217:5,11 229:25 230:3,4 renovate 17:13,15 renovating 166:4 renovation 17:18 17:22 19:11 53:17 renovation/decor... 47:20 renting 15:11 reorganizing 163:4 repeat 212:8 repeating 203:19 204:14 repetitive 198:11 rephrase 5:12 9:13 172:21 reporter 58:17 249:8 represent 4:9 52:21	52:24 156:17 172:12 180:13 representative 155:2 representing 121:22 122:3,8,13 represents 5:15 133:21 request 172:5 220:24 REQUESTS 250:8 require 64:23 114:25 115:3 166:11 required 8:8 20:13 49:18 50:6 53:5 93:22 145:2 residential 19:11 44:25 127:5 resigned 174:10 respect 53:12 185:22 respects 148:7 respond 82:17,20 87:8 103:2 203:5 responded 61:12,22 79:13 81:22 87:15 87:19 194:13,23 responding 215:7 response 34:18,21 65:19 82:22 88:9 214:14,17,17,23 214:24 217:18 218:2 241:15 responses 4:25 responsibility 39:15 responsible 39:9 40:20 41:2 45:24 47:16 180:2 rest 46:2 63:17 178:2 222:13 244:6 restart 64:10 restate 21:8 restroom 69:22 76:19 result 81:15 113:13 180:4 187:13 resumed 107:5 retail 59:9 91:6 retailer 19:6 retained 24:8 41:15 59:14 119:16 191:8 retrospect 48:3 revealed 154:3 review 5:20,22 6:3 6:10 42:19 144:24
--	--	---	--	---

150:20 153:7 222:7 reviewed 5:23 46:23 151:7 156:11,16 reviewing 6:6 218:6 revisions 114:5 revisit 136:6 revoked 15:14,15 rework 63:25 reworked 200:24 reworking 66:3 77:17 200:17,24 201:2 202:9,22 203:7 204:3 re-look 89:8 right 5:4 9:25 13:20 15:6 16:21 22:22 24:11 25:19 31:5 32:3 33:6 40:21 41:12 53:24 54:19 56:18 58:15 67:14 68:7 72:13,19 73:10,18 75:3 76:13 77:18 79:3 85:16 93:15 100:23 110:15,22 112:20 122:4 140:25 146:17 150:25 158:15 169:5 171:22 173:3 177:16 179:24 181:4 186:2,21 189:2 190:4 192:5 193:6 198:3 200:21 206:10,17 207:6,7 208:10 210:25 211:24 212:19 213:20 214:20 215:6 218:4,6 221:15 225:5,13 229:21 234:2 237:15 238:15 245:14 246:14 247:12 Rinehardt 65:11,14 65:19 Rizvi 56:20 Robert 125:19 rolling 36:21 room 6:5,11 17:2 26:7 45:15 70:24 70:25 71:16 74:2 76:10 131:2,9 140:18 143:18 148:10 159:6,7,10 160:6,11,21 161:2	162:7,7 163:9,10 169:20 186:22 207:24 rooms 64:2 137:11 144:4 194:20 195:11 232:7 rotate 146:25 rough 93:9,13 row 198:15 RPR 1:21 249:24 RQ 172:3 250:8,9 rudimentary 101:12 ruing 169:18 running 71:23 rush 246:20 Russia 92:6 188:23 Russian 16:4 104:8 S s 2:2 3:2 4:2 107:2,2 107:2,4 165:25 sake 213:2 sam 2:11,16 172:11 same 5:6 12:18 13:6 40:5 53:10,18,19 67:8 83:6 96:12 100:3 151:11 158:14 159:10,11 159:12,14,16,17 159:18,19,21 160:7 161:6,7,9 172:14 174:5 176:20 177:9 199:2 203:20 224:8 226:4 232:11,17 233:3,4 233:4 235:20 243:11 samples 60:22 99:7 130:23 131:6,10 131:10,13 sat 17:2 satisfy 80:6 156:20 saw 24:22 29:15 35:17 36:6 38:10 58:9,13,13,14 66:21 69:10,13,14 69:14 87:14 97:9 132:5 151:6,12 199:25 219:14 229:15 230:13 237:22 saying 29:11 44:19 60:25 62:14 64:12 82:10 96:12 104:5 146:4 162:25 169:15 200:23	201:11 226:21 228:5 229:4 230:21 242:8 says 6:24 12:3 29:16 44:8,17 45:5 48:17 55:22 72:14,22 73:2,10 83:25 84:4,14,16 84:17,22 90:3 110:8 112:7 119:5 120:12,23 135:15 136:25 138:16 139:12 189:15 190:8 191:8 200:15 203:7 206:16 207:17,18 207:18,23,24 208:7,19 209:10 209:10,11 214:5 216:11,17 217:23 221:15 SC 156:13,17 scaling 210:6 schematic 49:2 64:2 79:5 84:7,11 87:4 87:5 117:22,22,23 120:12,16,23,24 121:14,21 133:14 134:20,24 137:13 191:11 197:7 202:2 216:12,14 scheme 63:24 197:22 schemes 35:11,22 37:3 38:10 205:8 205:11 School 14:6 scope 20:25 22:3 38:21,24 39:12,21 41:8,23 45:6,11 47:13 54:20 60:2 60:20 62:6,8 63:15,21 64:2,8 64:15 66:10 69:15 70:21 75:19,22 76:2,4 85:5 106:7 123:7 132:25 133:7 142:3 145:14 162:5,22 163:7 194:18 197:2,3,8 210:19 211:8,13,15 215:22,24 scratch 204:18 scuttle 129:24 130:10 seal 142:4,10 seals 142:9	seated 5:4 sec 19:17 second 16:23 49:16 49:25 57:19 83:15 84:13 102:7 106:13 108:8 110:2 118:15 154:16 193:12 206:11 214:2 section 48:17 49:8 84:14 196:11 sections 246:22 see 8:3 12:5,19 13:8 15:8 29:12,22 33:25 34:21 44:19 45:8 46:19,24 47:4 48:16 49:8 49:21 50:3 52:5 52:11 59:2 63:5 66:5 67:3 71:8,13 78:19 82:15 84:2 86:12,25 88:12,18 88:21 90:11 91:7 91:9,10 94:12,20 95:16 96:7 97:11 98:17 104:25 109:20 111:25 112:16 113:4,11 117:4 119:19 130:17 134:16 143:2 146:23 148:4 151:8 152:4 156:10 160:24,24 161:5 162:3 166:25 187:23 189:10,20,25 190:10 191:14 200:19 203:9 206:14 207:19 208:6 209:14 217:3,6 221:14 222:9,20 225:20 229:11 230:14 234:8,20 237:7 seeing 37:8 97:5 108:25 113:10 145:20 146:2 seek 164:13 seem 58:21 227:25 seemed 33:15 37:17 86:10 129:7 seems 10:20 21:9 55:15 56:4,19 98:16 213:4 seen 47:5 66:24 67:23 68:2 70:4 79:15 86:24 91:2 91:3,24 108:20	147:10 150:16 220:12 229:10 sees 233:5 self-certifies 106:6 send 96:5 120:4 164:5,6 sending 96:13 190:8 247:7,7 sends 177:3 senior 152:21 sense 45:16 63:22 155:3 218:4 222:11 sensed 220:22 sent 27:17 29:16 32:9,13,18,18,20 46:15 56:15 57:3 126:4 131:13 164:11 189:15,24 192:8 196:10 219:18 246:5 sentence 49:16,23 53:10 203:11 205:3 separate 10:2 48:19 140:15 154:6 separated 124:16 separately 41:3 85:17 213:3 September 16:11 23:17 24:8,15 42:3 55:16,20 56:3 58:9,23 59:16 63:2 119:17 119:24 193:15 sequence 43:14 158:18 series 35:7,21 47:2 141:5 serve 47:23 84:4 service 52:11,17 89:20 168:14,22 169:6 services 1:5 6:25 7:12,16,17,19,21 7:24 8:18,21 9:8 10:4,22 11:5,11 11:14,21 12:12,13 24:4,9 41:16 45:7 45:10,12,13 47:13 51:14 83:25 84:5 85:5,9,12 119:8 153:8,17 155:18 169:10 177:2 serving 29:5 set 19:14 27:3 55:10 68:13 69:19 72:14 75:20 85:6 92:14
--	---	--	---	--

113:15 138:17 139:10,13 141:8 141:14,18,19,21 142:2,18,21 145:18 150:16 152:17 155:4 156:2 157:6 158:23 159:25 224:15 242:16,17 242:18,18 244:24 244:25 245:5 249:11,21 252:4,7 sets 218:22 setting 18:14 seven 179:22 several 198:5 211:6 212:4 share 117:8 sheet 12:3 71:5,13 72:6 73:24,24 74:23 75:2,4 136:14,25 138:15 138:18 139:14 146:11,14 147:21 147:24 156:17 158:8,8,11,16,22 159:24 160:3 162:13,16 248:2 251:21 252:4,7 sheets 67:7,11,15,19 69:25 143:6 146:20 147:7,24 150:17 151:22 152:4,6 155:4 162:20,22,23,25 165:11 167:4 168:7 170:15,18 218:21 222:8 242:24 244:7 250:22 252:10 she'd 123:24 she'll 157:25 shifted 158:22 shit 166:15 shop 59:23 60:3,21 170:17,23 219:21 245:4,17,21 252:10 short 69:22 106:11 shorthand 11:17 249:7 shouted 184:21 shouting 185:7,10 185:15 show 11:25 22:17 22:18 23:14 55:10 58:10 66:14 76:9 79:18 90:14 92:14	103:3 122:17 128:24 130:12 131:12,17 138:14 139:10 160:5 189:2 231:18 showcase 22:19 showed 35:7 36:17 131:6,8 145:18 146:16,19 210:11 227:23 showing 75:2 127:17 129:6 136:19 145:22 147:15 153:12,13 shown 70:6 144:2 201:7 shows 68:4 69:16 72:2 73:25 74:4,7 74:10,13,16,24 75:4,10 76:5 137:23 side 127:10 160:14 177:20 Sidney 156:12 sign 142:4 signature 23:22,25 57:4,5,6 signed 25:8 42:5 54:2 55:21,25 56:2,8,21,23,24 57:3 171:15 221:3 significant 22:24 168:7 similar 26:10 148:7 148:14 similarities 148:4 168:7,9 similarity 232:21 similarly 121:25 135:9 simplified 229:19 242:22 simply 185:2 sin 208:23 since 58:17 173:19 229:9 singular 205:12 sir 6:18 13:20 24:20 27:9 42:22 43:21 67:14 77:10 87:10 94:7 95:12 98:13 136:17 sit 42:12 69:3 100:6 102:13 103:12 111:19 site 109:18 110:24 206:13 situation 12:14 39:5	101:2,20 102:17 126:11 201:19 237:11 situations 11:5 six 239:14 six-week 14:22 size 152:2 sketch 86:25 skipping 193:8 skis 103:21 slight 74:16 slightly 88:21 small 44:25 104:2 smaller 151:24,25 smoother 127:8 social 23:9 25:3 31:18,24 socialize 124:23 socially 16:15 soffit 159:7,11 160:17,22 161:5 161:12 233:8 soffits 159:16 162:18 sold 101:11 sole 155:17,19,20 solely 53:11 some 6:23 9:23 12:25 16:5 19:17 20:20 21:10,10 22:9,14 24:24 27:2 29:14 32:16 33:11 37:12,13 46:18 54:13 59:9 59:13 60:18 63:23 70:7,14 71:21 72:2,3 74:5,16 75:10 79:13,18 82:13 85:11,19 86:16 88:24 100:6 100:10 101:5,12 101:13,16,16 102:13 103:13,14 105:15 108:22 117:14,15 120:3 125:12 127:7 131:10,13,13 136:6 137:25,25 138:3 139:9,9 142:12 145:9,10 148:4,7,11,12,13 151:12 154:5 162:23 166:8 168:8 172:15,17 188:22,23 192:16 192:21 194:17,21 199:5 201:23 212:24 215:25	216:24 225:11 229:16 230:12 242:11,14 246:25 somebody 21:5 29:5 33:15 53:14 65:13 92:2 103:3,4 121:7 151:13 165:14 189:19 204:20 208:3 235:24 somehow 126:17 129:24 someplace 96:20 something 7:6 18:14 19:23 21:24 25:4 26:10,16 43:6 50:7 55:7 69:14 70:10 73:20 85:13 88:7 90:18 99:3 101:12 102:14,18,25 103:3 112:17,19 130:8 140:14 144:16 146:6 147:13 150:9 153:5 168:24 183:6,19 186:13 186:14 190:18 194:25 205:21 208:9,15,24 209:5 210:18 214:21 221:23,24 222:10 227:24 228:7,17 234:19 235:6 239:3 245:17,18 sometime 24:15 sometimes 119:11 127:8 somewhat 127:4 158:2 187:22 somewhere 173:7 soon 204:25 soon-to-be 192:21 sophisticated 112:10 sorry 6:7 11:18 16:11 27:15 34:8 44:14 49:6 58:19 74:25 75:3 88:14 91:14 94:23 108:24 109:14 125:6 178:18 188:12 189:14 200:19 216:20 226:5 234:12 236:13 239:24 sort 15:12 18:20 19:9 29:6,14	33:19 47:20 61:15 99:6,12 103:24 104:6,8 195:20 sorts 222:14 Southampton 15:24 16:3 17:21 25:5 29:19 SOUTHERN 1:3 space 72:3 144:10 speak 149:21 171:4 171:8 speaking 127:7 specific 18:8,13 22:15 23:8 30:4 67:24 81:23 108:3 110:25 128:18 146:5 174:11 186:23 215:24 217:6 224:11 246:24 specifically 47:14 69:4 80:15,15 87:14 103:13 128:19 186:23 191:6 specifications 163:12 specify 74:20 spectacular 112:11 speculate 111:17 231:2 speculating 111:15 speculation 175:22 188:8 speculative 53:15 176:6 spend 54:15 80:22 216:2,4 spent 77:16 82:14 spirit 153:4 spoke 24:12 25:8 148:24 149:2,3,5 214:25 spoken 16:24 ss 249:4 staff 8:14,17,21,23 8:24 29:5 123:17 149:5 182:13 stamp 71:6 72:7,21 73:2 142:4 stamped 150:13 213:6 252:12 stamping 142:6 stamps 142:8 213:19 stand 107:5 standard 44:24 52:9 75:12 199:17
--	--	--	---	--

stand-alone 48:16 start 15:6 16:10 43:16 58:25 60:19 60:23 61:14,24 80:16 98:17 129:9 158:17 160:10,13 188:10 193:18 199:19,20,20 201:17,22 204:21 216:23 234:24 235:24 246:10 started 14:13 20:6 26:19 54:10 55:8 55:9 64:8 86:12 146:2 147:25 149:7 187:17 188:13 194:10,21 195:15 199:13 200:3 201:14,15 202:4 234:25 235:8,14 236:11 236:16 starting 58:22 62:16 98:11 109:14 138:25 194:16 201:20,25 204:18 251:15 state 1:22 8:4,12 15:18 249:3,9 stated 77:16 165:3 statement 40:13 86:2 135:22 171:15,16 states 1:2 8:6 status 135:22 staying 16:25 233:13 stenographer 5:2 STEPHEN 1:17 247:17 248:4,20 249:10 250:4 stick 150:10,11 still 62:7 81:12 97:11 100:4 102:11 103:11 112:4 168:2 175:18 176:18,22 177:5,6 202:7 stone 93:21,22 131:9 208:20 stop 171:17 storm 166:16 story 100:21 stress 86:4 strike 174:20 202:12,16 strong 148:4 structure 19:14	structured 40:18,24 41:7,13 structures 13:5 stuck 163:5 studied 14:8 stuff 16:12 36:17 37:5,6 68:24 93:15 109:21 128:13 131:12,16 142:25 143:2,10 149:14 150:5 151:18 157:18 163:21 164:3,3 166:11,14 201:17 204:24 229:16 243:24 244:10 stylistic 18:13 subcontractor 60:16 202:7 subject 100:10 217:24 submission 167:23 submit 59:24 submittals 59:24 submitted 75:14 145:19 147:16 166:24 196:2,5,7 196:20,21 225:16 226:12,23 228:6 231:21 Subscribed 247:19 248:21 subsequent 25:24 32:4 80:20 81:24 104:16 113:13 126:3 141:20 164:8 subsequently 95:15 160:24 substantial 155:13 substantially 244:8 sue 153:25 sued 153:9 suede 207:24 suffered 229:3 suggest 187:14 208:6 suggested 206:25 208:16 suggesting 207:22 suggestion 186:15 suggestions 184:4 suing 226:7,11,21 226:22 227:4 suit 226:2 Suite 2:6 3:7 summaries 222:12 summary 99:14	111:6 summer 16:9,13,21 23:3,3 24:13,23 25:15 28:18 Sunday 33:22 superseded 72:11 72:18,22 suppose 18:21 174:7 246:4 supposed 46:8 156:7 163:25 168:5 178:9 218:12 228:17,18 sure 29:7 30:11 38:21 46:4 77:22 86:22 87:18 100:9 101:25 102:3,20 108:2,9 110:13,14 115:5 119:2 121:6 121:8,17 146:10 147:9 152:7 156:25 157:23,24 160:9 168:5 201:6 213:10 214:12 216:10 218:18 220:23 237:7 240:6 247:7 surprised 245:25 survey 199:18 suspended 179:23 swing 144:23 sworn 4:3 107:5 247:19 248:21 249:12 <hr/> T T 4:2 107:2,4 249:2 249:2 take 20:17 21:10,19 21:20,25 26:20 27:12 37:2 50:16 57:14 63:13 65:7 69:22,24 76:19 78:14 106:10 109:11 114:20 124:6 137:18 158:4,7 162:4 168:17 170:6,8 179:4 191:2 213:8 219:8 228:18 233:12 234:25 239:21 taken 1:17 4:13 76:20 170:10 200:6 218:8 233:15 241:19 takeoffs 123:18 201:23	take-away 140:14 taking 18:4 195:23 228:15 239:23 talk 18:8 58:20 102:19 103:5 163:17 186:22 237:5,9 talked 26:12 53:23 113:11 206:25 talking 11:16 23:7,9 25:4 30:14 37:25 58:18 59:5 62:2 64:9 66:7 86:14 89:13,14 100:11 128:10 134:12 138:4 144:9 161:24 162:9 182:15 232:25 talks 233:2 tape 171:23 172:4 target 102:24 taste 18:23 tasteful 112:8 technicality 40:10 technically 228:13 telephone 23:9 60:12 94:18 190:24 209:10 241:18 tell 13:22 16:19 17:10 19:4 20:4 25:6 26:2 35:2 70:17 78:8 83:11 104:3 111:6,9 124:10 128:5 138:23 149:8 155:12 157:10 158:10 174:21 192:24 193:2 207:11 214:9 223:13 230:6 234:3 245:14 247:8 telling 22:4 183:19 ten 210:18 tend 185:17 tendered 154:18 239:7 ten-minute 170:6,8 term 12:8 terminate 178:3,5 179:21,25 192:7 terminated 133:6 163:15 164:19 168:3,9,16 169:12 174:10 178:19,24 178:24 179:11,12 180:5 192:11,19	218:13,14 235:4,6 235:7,15,19 238:25 246:12,16 246:22 terminating 131:24 236:25 termination 5:25 150:22 164:8 169:4 174:12 179:5 terms 36:25 58:6 61:3 101:22,23 115:11 117:11 126:25 138:7 145:10 174:16 187:12 215:25 223:22 224:7 228:13 terribly 37:15 test 179:6 testified 4:4 107:6 173:16 180:9 testify 187:25 testimony 5:5 32:2 165:22 180:18 188:7 196:19 197:20 198:18 208:12 212:14 223:25 237:25 244:13 249:13 text 45:5 214:2 thank 6:13 29:17 40:17 102:10 167:20 172:7,8 thanks 247:13 their 59:12,25 60:2 60:20,20,21 96:19 103:24 126:25 155:15 177:20 180:4 190:10 194:20 236:18,19 236:23 237:6,10 237:13,14,19,21 245:21 246:10,11 thereto 119:5 they'd 98:8 180:2 thing 21:21 23:10 29:16 47:25 60:14 70:12 140:24 142:16 160:7 161:23 166:15 183:10 186:13,24 188:4 191:5 195:20 210:22 216:15 217:18 238:11 things 11:10 21:7 22:9 52:19 76:6
---	--	---	--	--

91:22 98:8 100:11 101:5,10 109:9 110:10 131:7 137:21,25 138:3 143:7,25 144:18 145:5 148:12,13 148:13 151:17,21 151:25 153:3 160:23 163:13 166:5 184:4 187:17 197:13 199:9 206:20,25 207:3 208:4,4,5 217:7 232:12 241:9 242:14 243:5,10 thinking 52:25 86:7 246:3 third 16:23 41:20 84:22 119:13 139:22 198:15 203:20 217:23 238:2,14 third-party 85:14 113:22 thoroughness 213:2 though 45:20 61:23 211:11 218:20 224:17 thought 27:24 47:17 106:2 107:23 127:21 150:2 183:14 187:18 207:2 237:12 thoughts 229:22 thousand 174:8 238:3 threat 129:23 threatened 186:3 three 5:25 10:13,18 10:19,21 13:17,25 35:24 38:10 59:20 60:2 69:4 83:15 116:5 143:6 146:19 160:11 170:15,18 199:3 250:16 252:10 three-dimensional 85:12 86:14 92:8 99:25 217:4,11 through 7:20,25 24:13 33:12 35:3 42:3 60:4 64:5 69:21,24 76:14 100:22 103:5 114:11 117:20 130:8 132:23	150:8,17 151:9,13 152:16 157:22 158:8 184:20 210:15 213:9 222:24 238:5 throw 90:19 throwing 128:13 throws 159:8 tied 25:3 tiler 61:8 time 12:13 15:24 19:12 20:9,13,18 21:11,19 22:25 23:12 24:7,14 25:7,25 29:2 34:14 35:6,10 38:9,9 42:2,10 48:4 56:12 58:9 58:12,14 59:25 66:20 76:19 82:14 82:21 86:5,21 87:6 103:16 105:3 109:2,6 111:18 114:20 115:2 117:4 122:8 123:8 124:16 126:13,21 127:16 128:19 133:16 135:5,11 135:23 151:6 158:7 172:22 175:2,23 186:11 198:15 203:21 204:12 215:20 218:14 219:6 235:8 246:21 247:5,14 times 23:4 24:15 25:8 26:5 31:4 98:8 198:5 199:3 211:6 212:4 215:16 title 28:13 titled 44:23 today 5:5,10 42:12 69:3 78:25 125:18 136:20 145:5 170:20 172:14,19 172:23 185:11 199:6 213:23 230:20,25 today's 5:19 13:21 57:13 65:6 67:16 67:17 77:11 81:2 95:13 98:14 115:20 125:19 136:18 170:16 together 15:7 25:3 34:20 61:9 140:16	140:19 147:22 157:18 229:22 toilet 104:9 told 16:15 19:5 20:7 20:7 28:22 34:15 39:20 59:7 86:6 101:9 103:16 127:15,20 148:25 149:4 186:12 202:3 210:17 211:14 216:2 245:15,20 Toma 9:4 tone 184:18 185:6 top 48:14 65:20 79:3 189:11 200:12,14 206:15 234:10 Toronto 14:7 Torpedoed 126:16 total 133:22 152:4 175:23 238:14 totally 23:10 172:17 towards 111:10 246:14 transmittals 148:17 transmitted 165:13 189:11 traveled 18:18 traveling 28:7 90:10 tremendous 86:4 Triarch's 136:20 146:20 157:4,5 167:17 245:16 tried 62:20 184:7 186:22 194:14 214:18 237:5 true 127:20 249:13 truing 198:17 truth 70:17 149:8 truthful 191:18 try 5:12 23:12 64:4 64:13 130:9 157:17 172:24 176:24 194:25 195:20 208:18 210:23 220:21 221:2 237:9 trying 21:4,5 35:14 43:6 62:4 66:8,9 114:14 115:9 128:10,20 146:12 147:3 156:22 170:3 181:19 187:11 193:8 201:10 202:3 204:19 212:15	222:10,17 223:11 228:3,8 230:24 239:22,22 tune 244:12 turn 146:24 240:21 turned 158:15 245:24 turning 103:23 turns 175:15 TV 130:25 186:21 tweaked 232:12 twenty 122:6,9 two 15:25 40:14 67:6,10,15 80:2 81:8 110:5,6 112:7 117:2 127:24 129:20 134:3 144:18 147:22 159:18 162:20 170:12 180:10 197:11 229:22 238:3 250:22 type 22:8 75:13 typical 20:16 21:20 21:21 115:14 132:18 215:22 typically 32:15 43:10 61:4 73:21 75:14 93:23 98:7 131:12 208:2 typo 135:13	185:19,23,25 186:4 uncommon 127:6 under 4:21 7:3 11:22 12:7 15:3 33:2 45:11 48:13 49:7,15,25 51:3,4 52:3 72:15 73:3 85:16 86:4 118:18 119:3 136:24 138:15 139:11 142:3 173:4,6 180:3 underlying 67:4 69:11 underneath 118:4 129:16 understand 4:18,20 4:23 5:5,10 10:17 18:17 19:9,20,22 23:10 27:22 28:5 31:25 42:16 44:10 44:14 76:15 112:9 125:4 129:17 167:3 172:20 175:25 176:22 181:19 190:9 198:24 203:16 216:21 223:11 226:5 227:13,15 228:3,8,14,24 240:6 244:14 245:25 understanding 28:11 42:9,13 48:7,8,11 52:16 59:4,15,22 61:17 63:12 85:25 93:6 96:9 113:6 126:25 129:5,21 154:5,23 167:21 169:7 171:23,25 176:9 179:9,20 180:7 191:10 235:13 245:4 understood 19:9 28:12 30:12 194:15 228:21 undertake 145:14 undertaking 127:14 unexecuted 46:23 46:25 unilaterally 179:25 UNITED 1:2 University 14:7,11 unless 53:17 178:10 215:23 unrelated 12:24,25
--	--	---	--	---

100:13 unsettled 100:5 102:11 103:11 unsigned 47:7 until 14:21 60:23 61:15,25 62:18 99:15 127:11 133:8 202:5 246:11 unusual 148:21 149:7 upcoming 110:11 upset 130:6 upside 119:21 upside-down 72:16 use 52:4,24 53:11 53:20 164:8 167:17 169:5 184:10 211:2 228:19 237:2 used 11:12 39:25 40:2,6,14 52:13 168:15 187:9,15 207:22 209:2,2 221:21 227:4 235:19 243:13 useful 68:18 using 40:8 45:16 229:14 234:24 235:24 236:3 usual 230:23 usually 20:3 22:2 61:6 119:12 131:12 132:20	82:24 86:8,10 86:11,11 89:17 90:2 101:12 102:16,25 103:2 104:2,8 106:4,6 124:2 127:18,25 128:11 142:13,15 148:20 186:20,20 192:9 209:22 210:8,19 215:21 218:19,19 222:16 222:25 223:18 224:6,11 232:15 239:13 240:15 vestibule 159:14 via 126:4 Victor 4:11 view 134:24 175:15 175:18 views 104:20,25 violate 178:14 VIP 234:8 virtually 215:22 vision 17:16 visit 229:12 visited 26:12 visualize 86:16 vladimir 1:10 2:13 16:5 24:22 28:6,7 30:7,16,17,18 31:15,24 33:15 39:7 59:6,7 60:17 62:11 65:23 82:2 82:7 86:4,6 88:16 97:17 99:8,10 100:22 101:10 102:15 103:8 104:5 107:17 112:12 127:16 136:6 149:11 169:18 172:12 182:24 193:25 194:23 197:24 201:8 204:19 216:16 234:20 246:4 Vladimir's 27:25 28:3 30:13 60:15 127:3 169:23 209:18 volume 113:7 volumes 113:7 voronchenko 1:10 2:13 4:11 14:2 15:21,23 16:17 17:10 18:24 21:12 23:5 24:13 28:18 28:24,24 33:12	35:2 36:8,13,16 37:19,22,24 51:10 80:6 103:17 107:11 109:18 110:24 114:18 124:19 126:9,21 129:5,13,17,21 130:17,22 149:17 153:9 163:21 164:7 172:12 182:24 186:12 187:25 192:22 206:13,20 207:21 208:9,15 219:7 Voronchenko's 16:2 29:21 107:21 125:15 Vukovic 95:25 96:5 96:10	186:20 187:8,15 188:2 192:7 194:2 195:3 204:20,21 207:22 220:23 234:20 241:9,10 wanting 18:7 145:13 wants 109:19,20 warm 185:23 warn 80:5 wash 174:15 wasn't 18:3,12 28:7 31:22 37:15,15,17 54:12 55:4 68:25 70:17 80:14 109:19 119:8 156:12 177:14 179:11,24 183:15 195:19 211:10 232:18 235:5 waste 126:13 175:23 wasting 111:18 water 160:12 way 20:7 22:11 25:13 26:2 28:21 40:18,23 41:7 46:7 58:7 59:13 61:11 87:18 89:18 89:20 103:21 110:18 127:23 128:11 130:2 135:12 155:5 159:9 168:4,20 169:13,15 181:16 187:7 195:21 217:17 228:25 232:16 234:23 243:12 245:9 249:18 wealth 103:25 week 9:21 65:21 200:16 210:14 weekend 29:13 weeks 81:10 129:20 weights 243:5,10,19 weird 73:14 well 10:20 14:19 20:3 37:15 45:14 47:8,17 48:8 53:8 53:10 57:17,18,21 58:8 61:18 62:4 63:7 76:13 87:13 88:7 93:14 101:17 102:4 104:11 108:20 114:24 115:17 117:10 138:5 142:10,13	142:16 146:8 151:4,8 155:9,16 155:21 157:2 158:4 162:14 164:11 168:21 169:16 173:16 177:10 178:3,21 183:9,12,22 184:9 187:8 190:4 192:20 194:13 195:7,15 204:13 206:23 208:2 210:6 218:24 220:17 222:7 227:3 229:9 230:19 232:3 234:7,19 236:23 237:14 240:16 242:2 244:21 245:9 went 37:21 38:8 68:18 117:20 157:22 164:13 171:7 219:14 weren't 51:21 63:22 63:22 80:15 124:25 125:2 128:13 142:6 147:9 178:23,24 180:5 201:15,21 204:22 209:6 218:25 221:17,20 221:22 wesley 3:9 4:7 we'll 6:22 13:15 43:12 67:6,7 69:22 72:13,21 76:16 170:9 191:2 202:5 204:25 215:24 we're 7:24 11:5,13 11:16 43:13 45:21 45:21 58:20 68:5 72:12,14 81:17 90:19 109:10 114:14 117:24,24 140:8 142:5,19 151:22 152:25,25 152:25 153:4,4 161:24 162:8 167:4 168:16 172:23 185:3 198:19 204:24 215:23 227:13,16 227:17,19 236:24 240:2 we've 13:21 15:7 32:10 52:21,22
---	--	---	--	---

53:2 58:17 60:10 60:10 67:15,16 77:11 78:11 80:25 98:13 116:16 122:17 125:18 136:17 204:24 216:11 229:3 WHEREOF 249:20 while 28:6 218:5 222:21 whirl 157:20 whole 35:7,21 37:4 54:24 59:25 64:10 64:16 68:19,23 105:2 126:11 191:5 201:7 205:8 205:10 210:16 228:21 wife 15:24 30:10 33:12 100:24 124:14,15,20 129:20 wife's 16:25 willing 150:2 201:15 window 159:8 Wise 125:19,25 131:24 164:6 191:20 withdraw 30:15 witness 13:24 19:16 23:19 27:11 32:11 46:12 55:12 58:19 65:8 66:17 67:20 78:13 81:3 83:4 83:13 88:2 90:16 92:16 94:9 97:2 98:15 99:21 100:18 108:9 111:18 113:17 115:24 122:22 124:5 130:13 131:18 136:21 139:17 141:4,14 170:8 178:8,15 179:18 184:22 188:12 198:12,14 198:17,18 200:4,9 201:4 213:24 216:19 218:5 220:13 225:9 233:23 239:20 240:25 242:2,8 247:12 248:4 249:10,14,20 250:3 Wonderful 5:19 woods 131:4	word 40:2 58:25 wording 85:4 words 38:16 214:9 worked 14:14 15:7 65:14 119:23 127:23 129:13,15 145:13 182:14 194:14 195:21 working 14:13 16:10 29:4 30:2 33:15 43:13 45:21 46:8 71:2 75:24 82:24 98:24 105:8 120:3 128:15 133:5 149:10 151:25 199:20 204:24 219:19 234:24 238:23 works 187:7 worried 64:10 104:4,11 209:20 209:20 worry 149:15 worth 174:8 wouldn't 47:12,14 50:7,13 62:17 125:3 142:6 163:18 169:20 183:10,12 209:2 wound 165:19 169:22 write 191:20 199:11 199:14 writing 87:19 88:24 164:18 written 171:15 179:22 191:11 wrong 31:7 32:14 40:2 70:7 223:13 235:6 238:18,19 wrote 33:21 58:23 63:2 77:15 85:23 86:23 88:16 100:4 104:17 116:24 117:7 214:13,14 X x 1:4,13 25:8 174:13 174:14 175:7 250:2 251:2 252:2 Y yadda 215:16 yadda-yadda 215:16 yards 16:2 yeah 10:12 14:25 15:7 16:22 21:17	27:15,16 29:2,16 32:3,25 47:25 48:12 50:3,25 53:13 54:10 55:18 59:18 60:5 64:24 70:16 71:25 72:5 73:5 76:5 82:6 88:14,14,19 89:13 89:22 93:14 94:16 99:22,22 100:2 104:23 109:8 110:18 112:6 120:10 123:20,22 124:9 129:3,8 136:7 138:12,22 139:3,19 140:6,13 147:11 148:6,11 148:12 149:8 152:3 154:8 155:24 156:12 157:17 158:21 161:21 168:2,13 200:19 217:25 218:14 221:13 234:12 237:19 241:12 year 14:21 16:7 years 16:5 25:11 101:16 york 1:3,20,20,22 2:7,7,15,15 3:8,8 8:4,12 14:13 18:22 28:7,8 62:12 166:24 249:3,5,9 Z zero 216:7 Zetlin 164:14 Zoning 143:6 \$ \$1.2 132:4,10 \$136,000 215:19 \$2 175:16,17 \$20 166:4 \$20,000 120:24 \$20,400 133:16 \$30,600 133:19,21 \$300,000 175:15 176:4,14,18 177:2 \$350,000 176:17 177:4 \$362,000 79:10 \$50,000 177:6 \$52,000 173:8,11 237:19 \$70,000 81:11	\$800,000 133:25 215:13 216:4 0 01/19-01/20 110:8 1 1 2:14 44:6 45:4 48:14,14 49:16 50:2 51:3 69:21 71:5 79:3 88:4 102:7 106:8 116:10 120:6 121:13 146:11,14 147:22 1st 14:21 88:8 1/12/09 115:22 251:17 1/14/09 139:15 207:18 252:8 1/20/09 109:17 110:24 111:24 1/5/09 98:11 251:15 1:05 106:15 1:06 58:23 1:31 107:3 10 81:9 83:6 86:6 150:14 10th 92:17 94:11 214:15 10/2/09 76:22 251:4 10:25 1:15 10:46 98:20 10004 2:7 3:8 10006 2:15 11 1:20 2:6 3:7 56:20 11-CV-2708 1:8 115 251:17 12th 96:4 116:20 12/10/08 77:6 94:4 251:9,11 122 251:19 13 250:16 136 238:12 251:21 138 252:4 139 252:7 14 1:14 106:4 108:17 111:12 139:12 166:12 248:3 1475 73:5 15 58:23 59:16 133:21 15th 63:2 193:15 1560 3:7 16th 58:10 160 237:22	17 33:2 53:22 113:16 166:18 215:16 225:20 170 252:10 172 250:5,9 174 250:12 18 92:15 167:16 19 111:12 165:10 218:21 222:8 242:24 244:7 1930s 187:20 1976 14:7 1978 14:7,9 1979 14:9 1982 14:12 1987 14:16,20 2 2 16:10 23:16 32:10 72:6 77:12,20 83:14,19 86:23 88:4 116:11 118:17 120:19,19 120:22 121:13,20 133:10,13 146:11 146:14 2.1 79:19,22 20 32:13,15,19 84:23,25 108:17 111:12 124:4 218:21 247:20 248:22 20th 112:3 2005 24:8 2007 16:14,21 23:3 24:13 25:15 28:18 2008 16:11,11 23:4 23:17 24:15 35:4 38:6 42:3,4 55:14 55:16,20 56:3,9 56:16,19,20,22,25 59:16 71:7 72:7 72:10,17 73:7,14 81:9 83:21 86:6 97:15 108:17 120:6 136:15 137:2 138:11,16 138:19 141:6,19 145:19 193:5,15 251:22 252:5 2008-2009 109:6 2009 77:12,20 98:17 98:20 105:4 108:17 112:4 116:14 122:13 125:20 139:12 150:14 242:17 2012 1:14 248:3
---	--	--	--	---

249:21	40 76:24 78:12	8 55:14 56:9,19		
202 250:13	81:17,21,22 87:14	83:21 150:13		
204,000 133:22	135:13,17 173:11	155:4 233:24		
21 128:24	251:6	8th 120:20 122:8		
213 252:12	40119 206:16	8/10/09 72:23		
23 130:12 141:6,19	41 77:3 81:2,18	80 218:19		
23rd 2:14 242:18	82:12 251:8	800,000 134:5		
24 90:15 189:4,9,10	42 77:5 83:3 85:22	215:16		
242 250:6	251:9	85 135:10,15		
25 27:20 29:11	43 94:3,7,8 251:11	88 14:23		
233:19,20	44 95:8 251:13			
25th 42:3	45 98:10 251:15	9		
26 71:7 72:7,10,16	46 115:19,21 116:17	9 116:14 122:13		
73:6,14 87:25	116:21 251:17	9th 90:21		
136:15,25 138:11	47 122:18,19 251:19	90 135:2,7,13,16		
239:18 240:2	48 125:19 191:3,3	179:23 218:19		
251:22	49 136:13,18 251:21	94 251:11		
27 125:20 126:6		95 251:13		
240:21,23 250:17	5	98 251:15		
275 239:3	5 23:17 55:16,20	99 31:4		
28 131:17 133:12	67:12 98:17,20			
29th 249:21	100:4 250:23			
	5A 66:15 69:7,11			
3	5B 67:7,10,16 68:5			
3 32:22 52:4,4 71:16	147:5,21 148:3			
73:25 116:11,13	250:22			
116:22 117:5	5C 67:7,10,17			
120:6 122:12	250:22			
168:25	5th 42:3 56:2			
3D 113:21,21	50 138:15,17 252:4			
3rd 119:22	51 139:11,13 173:7			
30 12:3,19 108:12	252:7			
138:16,19 206:5,7	515 27:3 67:22			
252:5	171:2 206:16			
30,000 121:5	207:17			
35 13:16,17,22	52 170:16,17 252:10			
78:25 83:11 116:5	53 212:24 213:5,16			
116:5 153:13,13	252:12			
153:14 166:17	54,000 120:13			
250:16	57 250:18			
36 27:6,10 33:20	58 144:15,24			
250:17				
37 57:9,12 193:7	6			
250:18	6 33:2 49:8 53:22			
38 65:2,6 200:8	615 2:6			
250:20	65 250:20			
39 76:21 77:11	67 250:22			
251:4				
	7			
4	7 105:3 141:3			
4 78:22 79:9 99:19	7th 104:17			
107:9 111:8	75 117:12,13 118:3			
112:21 131:21	118:4,8,9 122:14			
133:13 134:19	122:14			
135:6 140:10	76 251:4,6			
172:23 191:2	77 251:8,9			
250:4				
4:42 247:14	8			